United States Court of Appeals

for the Second Circuit

APPENDIX

76-7292, 7391, 7449, 7450, 76-7466, 7485, 7506

IN THE

UNITED STATES COURT OF APPEALS

FOR THE SECOND CIRCUIT

GEORGE ARTHUR, *et al.*,

Plaintiffs-Appellees,

vs.

EWALD P. NYQUIST, *et al.*,

Defendants-Appellants.

Complete title of all parties printed on inside of cover.

APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF NEW YORK.

JOINT APPENDIX

VOLUME III — Pages 1331-1760

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GEORGE ARTHUR, NORMAN GOLDFARB, WILLIAM and WILHELMINA P. SEALES, JOHN MEDIGE, and THE CITIZENS COUNCIL FOR HUMAN RELATIONS, INC. and NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF COLORED PEOPLE, BUFFALO BRANCH,

Plaintiffs-Appellees,

vs.

EWALD P. NYQUIST, individually and as Commissioner of Education of the State of New York, THE BOARD OF REGENTS OF THE STATE OF NEW YORK, THOMAS M. BLACK, CARL H. PFORZHEIMER, JR., ALEXANDER J. ALLAN, JR., JOSEPH C. INDELICATO, M.D., KENNETH B. CLARK, HAROLD E. NEWCOMB, WILLARD A. GENRICH, EMLYN I. GRIFFITH, GENEVIEVE S. KLEIN, WILLIAM JOVANOVICH, MARY ALICE KENDALL, JORGE L. BATISTA, LOUISE E. YAVNER, MARTIN C. BARELL and LAURA BRADLEY CHODOS, individually and as Members of the Board of Regents of the State of New York, JOSEPH MANCH, individually and as Superintendent of Schools of the City of Buffalo, EUGENE T. REVILLE, individually and as Superintendent of Schools of the City of Buffalo, THE BOARD OF EDUCATION OF THE CITY OF BUFFALO, FLORENCE E. BAUGH, SAMUEL E. SACCO, JOSEPH E. MURPHY, MOZELLA RICHARDSON, DR. MATT A. GAJEWSKI, LOUIS C. BENTON, MICHAEL J. RYAN, JOSEPH D. HILLERY and MARILYN P. KAVANAGH, individually and as Members of the Board of Education of the City of Buffalo, STANLEY M. MAKOWSKI, Mayor of the City of Buffalo, and DELMAR L. MITCHELL, RAYMOND LEWANDOWSKI, GUS FRANCZYK, ALFREDA W. SLOMINSKI, WILLIAM J. DAURIA, JOSEPH S. FORMA, MICHAEL McCARTHY, WILLIAM B. HOYT, GEORGE K. ARTHUR, RICHARD F. OKONIEWSKI, HORACE C. JOHNSON, JOHN A. RAMUNNO, ANTHONY M. MASIELLO, DANIEL J. HIGGINS and WILLIAM A. PRICE, constituting the members of the COMMON COUNCIL OF THE CITY OF BUFFALO,

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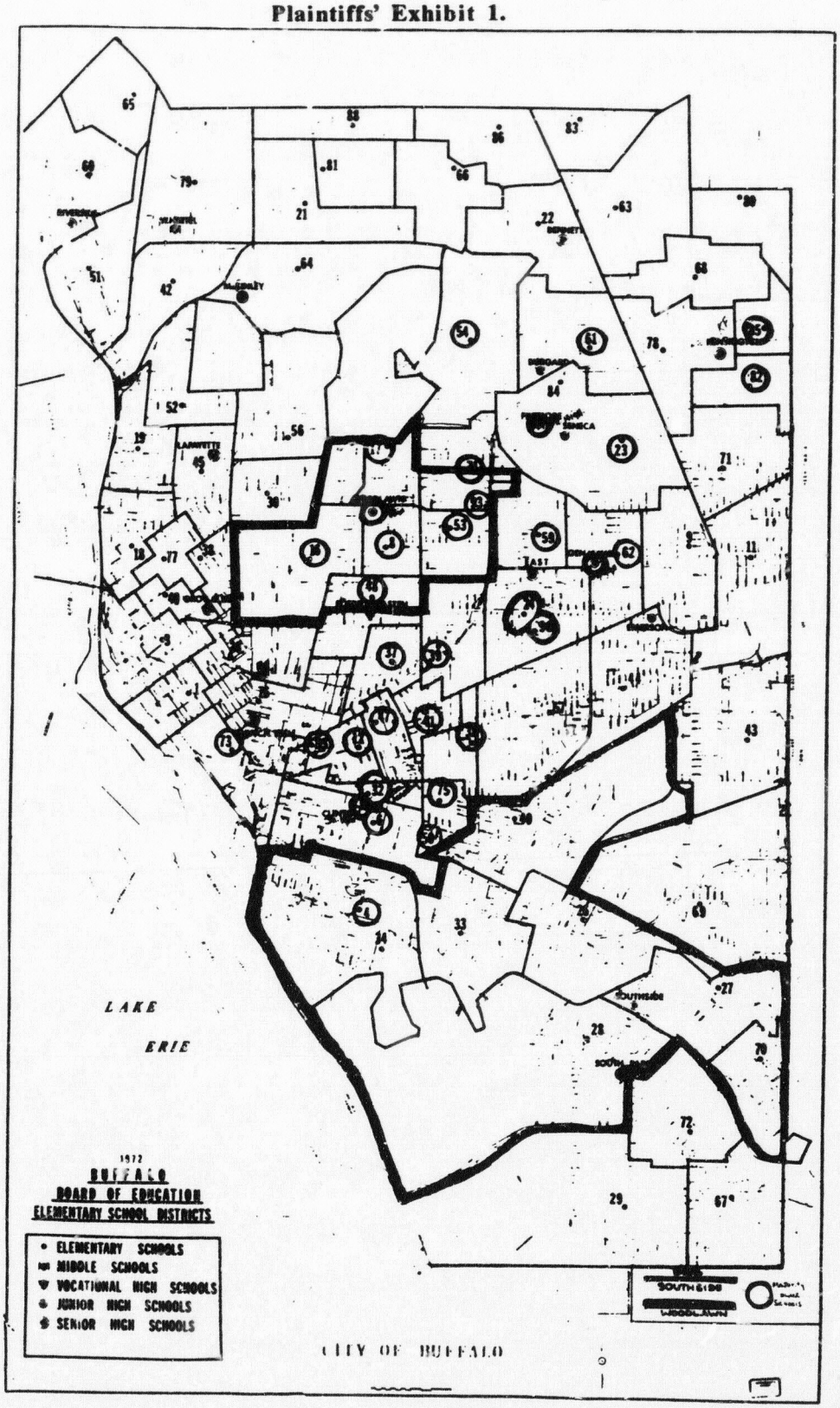

Plaintiffs' Exhibit 6.

BOARD OF EDUCATION
BUFFALO, NEW YORK

ETHNIC CENSUS OF THE BUFFALO PUBLIC SCHOOLS 1973-74

Joseph Manch
Superintendent of Schools

Claude D. Clapp
Deputy Superintendent

March 1974

Plaintiffs' Exhibit 6.

BOARD OF EDUCATION
BUFFALO, NEW YORK

Members of the Board

Dr. Matt A. Gajewski
President

Dr. George E. Blackman
Vice President

Mrs. Florence E. Baugh
Arnold B. Gardner
Joseph E. Murphy
Frank J. Niemiec
Anthony F. Tauriello

Report Prepared By:

Division of Finance and Research

Albert Thompson, Director

Plaintiffs' Exhibit 6.

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Plaintiffs' Exhibit 6.

INTRODUCTION

This report summarizes racial-ethnic data collected in October 1973 and compares it with that previously collected to provide information about the racial-ethnic characteristics of the Buffalo Public School membership. The information here is to provide a basis for decision making and to permit the district to fulfill reporting requirements of certain state and federal programs.

The data reported were collected by teachers as a part of the annual Basic Educational Data System Survey and without questioning any pupil about his or her racial or ethnic identity.

The racial-ethnic designations used in collecting and reporting the data are those which appear on the State Education Department's school data forms. They are: "Black," "Spanish-Surnamed," "American Indian," "Oriental" and "Other." The category "Other" includes all pupils who are Caucasian without Spanish-Surnames. In this report the "Other," "Oriental" and "American Indian" pupils have been combined under the designation "Other Pupils."

Since pupil membership varies considerably from day to day, caution should be exercised when comparing these data with other published data regarding pupil membership. The most reasonable interpretation of the figures reported here will be in terms of proportions and trends.

Plaintiffs' Exhibit 6.

SYSTEMWIDE ANALYSIS

Membership at All Grade Levels

The proportion of American Indian and Oriental pupils in the total membership has not changed significantly since 1966. (Table I) In 1966, they represented 0.6% and in 1973, 0.8% of the total pupil membership. Thus, changes in the "Other Pupils" category, which includes these pupils, represent changes in the Caucasian pupil population.

Since 1966, total membership has decreased 16.2%. White membership has decreased 30.1%, while Black and Spanish-Surnamed memberships have increased 6.3% and 97.8% respectively. (Table II)

Black or Spanish-Surnamed pupils now constitute 45.8% of the pupil membership, compared to 35.0% in 1966.

Though the number of Black pupils has decreased in each of the last three years, the percentage of Black pupils has continued to rise because of the greater decreases in total membership.

Elementary School Membership

Since 1966, elementary schools have experienced a 6.2% decrease in Black membership, a 81.4% increase in Spanish-Surnamed membership and a 33.8% decrease in White membership.

Membership in the elementary schools is now 45.6% Black or Spanish-Surnamed, compared to 36.2% in 1966.

Plaintiffs' Exhibit 6.

Middle and Junior High School Membership

These schools have experienced significant increases in total membership since 1966: Black membership 14.3%, Spanish-Surnamed membership 203.2% and White membership 62.3%. Most of the increases are attributable to the opening of two new schools since 1966.

In 1973, 63.9% of the middle school-junior high school membership is Black or Spanish-Surnamed, compared to 71.3% in 1966.

High School Membership

The number of Black pupils in senior high schools has increased since 1966 by 53.3% and Spanish-Surnamed pupils by 157.1%. During the same period of time, the number of White pupils dropped by 30.4%.

Black or Spanish-Surnamed pupils represent 39.8% of the high school membership, compared to 22.6% in 1966.

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ANALYSIS BY SCHOOLS

District wide, 28% of all schools showed a decrease in Black membership from 1972-73 to 1973-74 of one-half of a percent or more. These decreases in percentage were caused by decreases in the numbers of Black pupils in twenty-six of the schools. The decreases ranged from minus 1 to minus 121 pupils and from minus 0.5% to minus 8.0%. (Table VI)

Fifteen percent of all schools showed decreases in the percentage of Spanish-Surnamed American pupils of one-half of a percent or more. These decreases in percentage were caused by decreases in the numbers of Spanish-Surnamed American pupils in fourteen schools. The decrease ranged from minus 2 to minus 35 pupils and from minus 0.5% to minus 4.2%. (Table VII)

Elementary Schools* - (Total 77)

There are 21 elementary schools with 86% or more Black memberships. These schools constitute 27.3% of all elementary schools and enroll 66.1% of all Black elementary school pupils. In 1966, virtually the same schools had Black enrollments of 86% or more and 81% of the Black children in elementary schools attended them.

Elementary schools with majority white student bodies total 46 and these schools enroll 16.6% of all Black elementary school pupils. In 1966, 11.8% of Black elementary school children were enrolled in the 57 schools with majority White membership.

* Includes all numbered schools

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Middle - Junior High Schools - (Total 6)

Of the Black pupils in middle and junior high schools, 43.4% of them attend Clinton and Woodlawn Junior High Schools; the memberships of these schools are 98.2% and 99.5% Black, respectively. In 1966, the same two schools had memberships 96.8% and 99.2% Black, and enrolled 76.8% of all Black pupils at this grade level.

Since 1966, the percentage of Black membership has increased in all schools at this level. (Table V)

Academic High Schools - (Total 7)

East High School is 98.6% Black and enrolls 37.6% of all Black academic high school pupils. In 1966, the same school had a membership that was 90.1% Black, but 59.7% of all Black academic high school pupils were enrolled there.

Currently, 62.4% of the Black academic high school pupils attend schools that are majority White. In 1966, only 40.3% of these pupils attended such schools. In 1966, only 40.3% of these pupils attended such schools.

The percentage of Black membership has increased in all academic high schools since 1966.

Vocational - Technical High Schools - (Total 6)

Two schools, Fosdick-Masten and Burgard, enroll 53.6% of the total number of Black pupils in vocational - technical high schools. The memberships in these schools are 97.8% and 40.6% Black, respectively. In 1966, the same two schools had memberships that were 75.2% and 21.5% Black and their combined membership represented 62.6% of all Black pupils enrolled in vocational - technical high schools.

Since 1966, the percentage of Black membership has increased in all vocational - technical high schools.

TABLE I

Racial-Ethnic Census 1966 to 1973

- All Schools -

Number of Pupils

	1966	1968-69	1969-70	1970-71	1971-72	1972-73	1973-74
Black	24,543	26,343	27,009	27,157	27,136	26,478	26,084
Spanish-Surnamed	943	1,281	1,393	1,535	1,614	1,849	1,865
American Indian	454	422	485	456	455	527	516
Oriental	100	74	92	76	78	91	68
Other	46,823	43,645	42,615	41,076	38,954	35,315	32,527
	72,863	71,765	71,594	70,300	68,237	64,260	61,060

Percent of Pupils

	1966	1968-69	1969-70	1970-71	1971-72	1972-73	1973-74
Black	33.7%	36.7%	37.7%	38.6%	39.7%	41.2%	42.7%
Spanish-Surnamed	1.3	1.8	1.9	2.2	2.4	2.9	3.1
American Indian	.6	.6	.7	.6	.7	.8	.8
Oriental	.1	.1	.1	.1	.1	.1	.1
Other	64.3	60.8	59.6	58.5	57.1	55.0	53.3
	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%

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TABLE II

PUPIL MEMBERSHIP 1966 and 1973
- By School Level -

School Level	Ethnic Designation	Number of Pupils		Percent of Pupils		Change 1966-1973	
		1966	1973	1966	1973	Number	Percent
Elementary	Black	17,284	16,212	34.7%	42.0%	(-) 1,072	(-) 6.2%
	Spanish-Surnamed	758	1,375	1.5	3.6	617	81.4
	Other	31,738	21,016	63.8	54.4	(-) 10,721	(-) 33.8
	Total	49,780	38,603	100.0%	100.0%	(-) 11,176	(-) 22.5%
Junior High & Middle Schools	Black	3,212	3,672	70.6%	62.3%	460	14.3%
	Spanish-Surnamed	31	94	.7	1.6	63	203.2
	Other	1,309	2,125	28.7	36.1	816	62.3
	Total	4,552	5,891	100.0%	100.0%	1,339	29.4%
High Schools	Black	4,045	6,200	21.8%	37.4%	2,155	53.3%
	Spanish-Surnamed	154	396	.8	2.4	242	157.1
	Other	14,330	9,969	77.4	60.2	(-) 4,361	(-) 30.4
	Total	18,529	16,565	100.0%	100.0%	(-) 1,964	(-) 10.6%
All Schools	Black	24,543	26,084	33.7%	42.7%	1,541	6.3%
	Spanish-Surnamed	943	1,865	1.3	3.1	922	97.8
	Other	47,377	33,110	65.0	54.2	(-) 14,267	(-) 30.1
	Total	72,863	61,059	100.0%	100.0%	(-) 11,804	(-) 16.2%

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TABLE III

PUPIL MEMBERSHIP

Black Membership in Elementary Schools 1966 and 1973*

		January 1966			October 1973			
Percent Black Membership	Number of Black Pupils	Percent of All Black Pupils	Number of Schools	Percent of All Schools	Number of Black Pupils	Percent of All Black Pupils	Number of Schools	Percent of All Schools
96-100	12,029	69.6%	14	17.9%	8,271	51.1%	16	20.8%
86- 95	2,002	11.6	4	5.1	2,410	14.9	5	6.5
51- 85	1,246	7.2	3	3.8	2,506	15.5	7	9.1
16- 50	819	4.7	6	7.7	2,051	12.7	18	23.3
6- 15	885	5.1	16	20.6	726	4.5	16	20.8
0- 5	303	1.8	35	44.9	205	1.3	15	19.5
TOTAL	17,284	100.0%	78	100.0%	16,169	100.0%	77	100.0%

* Includes all numbered schools

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TABLE IV

PUPIL MEMBERSHIP

Elementary Schools by Percent Black Membership 1966 and 1973

Percent Black Membership	January 1966		October 1973	
	Number of Schools	Schools	Number of Schools	Schools
96-100	14	8 12 17 31 32 37 39 41 47 48 53 74 75 93	16	8 12 17 31 Build 37 39 41 47 48 50 53 59 74 75 93
86- 95	4	6 35 50 59	5	6 16 23 35 62
51- 85	3	4 16 54	7	4 54 61 73 82 85 90
16- 50	6	1 3 24 57 76 90	18	1 3 9 21 22 24 40 42 44 56 57 63 64 68 71 78 80 84
6- 15	16	18 23 34 40 42 56 62 63 68 71 73 78 79 82 84 85	16	18 19 30 36 38 45 51 52 65 66 69 76 77 79 81 86
0- 5	35	9 11 19 21 22 25 26 27 28 29 30 33 36 38 43 44 45 49 51 52 60 61 64 65 66 67 69 70 72 77 80 81 83 86 88	15	11 26 27 28 29 33 34 43 49 60 67 70 72 83 88
TOTAL	78	X	77	

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TABLE V

Number and Percent Black Pupils in Middle, Junior High and Senior High Schools 1966 and 1973
By School and Percent in Type of School

School Level	January 1966			October 1973			Change 1966-73		
Middle and Junior High	Percent Black Membership	Number of Black Pupils	Percent all Black Pupils	Percent Black Membership	Number of Black Pupils	Percent all Black Pupils	Percent Black Membership	Number of Black Pupils	Percent all Black Pupils
Clinton	96.8%	1,122	34.9%	98.2%	831	22.6%	1.4%	(-) 291	(-) 12.3%
Fillmore	42.4	397	12.4	88.0	682	18.6	45.6	285	6.2
Genesee-Humboldt	31.5	346	10.8	90.1	924	25.1	59.6	578	14.1
Southside	----	-----	----	11.5	150	4.1	11.5	150	4.1
West Hertel	----	-----	----	27.5	322	8.8	27.5	322	8.8
Woodlawn	99.2	1,347	41.9	99.5	763	20.8	0.3	(-) 584	(-) 21.1
Total	X	3,212	100.0%	X	3,672	100.0%	X	460	0
Academic High									
Bennett	27.0%	553	20.0%	43.3%	696	16.2%	16.3%	143	(-) 3.8%
East	90.1	1,638	59.7	98.5	1,615	37.6	8.4	(-) 23	(-) 22.1
Grover	6.6	96	3.5	22.7	258	6.0	16.1	162	2.5
Kensington	2.0	40	1.5	43.0	827	19.3	41.0	787	17.8
Lafayette	17.3	264	9.7	41.7	480	11.2	24.4	216	1.5
Riverside	1.4	25	.9	14.4	220	5.1	13.0	195	4.2
So. Park	5.5	129	4.7	10.2	197	4.6	4.7	68	(-) 0.1
Total	X	2,745	100.0%	X	4,293	100.0%	X	1,548	0
Vocational and Technical									
Boys	28.0%	54	4.2%	----	-----	-----	(-) 28.0%	(-) 54	(-) 4.2%
Burgard	21.5	212	16.3	40.6%	448	23.5%	19.1	236	7.2
Emerson	28.6	166	12.8	43.6	244	12.8	15.0	78	0.0
Fosdick	75.2	602	46.3	97.8	574	30.1	22.6	(-) 28	(-) 16.2
Hutch-Tech	10.2	114	8.7	18.7	210	11.0	8.5	96	2.3
McKinley	13.8	68	5.2	18.4	213	11.2	4.6	145	5.9
Seneca	8.1	84	6.5	19.6	218	11.4	11.5	134	4.9
Tota		1,300	100.0%	X	1,907	100.0%	X	607	0

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TABLE VI

Schools Showing a Decrease in Percent of
Black Pupil Membership 1972-73 to 1973-74

School	Change in Black Pupil Membership	
Elementary	Percentage	Number
4	(-) 4.0%	(-) 58
11	(-) 8.2	(-) 1
21	(-) 1.0	(-) 9
22	(-) .6	(-) 2
26	(-) 2.7	(-) 9
33	(-) 2.3	(-) 12
38	(-) .9	(-) 9
51	(-) 5.2	(-) 21
52	(-) 1.2	(-) 15
57	(-) .8	(-) 10
59	(-) 1.3	(-) 121
67	(-) 1.8	(-) 7
74	(-) 1.3	(-) 67
75	(-) .6	(-) 92
77	(-) 3.2	(-) 22
79	(-) 1.5	(-) 9
80	(-) 1.0	(-) 13
83	(-) 1.2	(-) 3
Special		
24	(-) .5%	(-) 7
35	(-) 5.1	40
84	(-) 3.0	(-) 9
IHM	(-) .7	(-) 2
St. Augustine	(-) 4.0	2
Junior & Middle Schools		
Southside	(-) 4.1%	(-) 71
Academic High		
Grover	(-) 4.3%	(-) 75
Riverside	(-) 2.9	(-) 95
South Park	(-) .6	(-) 68
Vocational & Technical		
Emerson	(-) 1.4%	(-) 2

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TABLE VII

Schools Showing a Decrease in Percent of
Spanish-Surnamed Pupil Membership
1972-73 to 1973-74

School Level	Change in Spanish-Surnamed Pupil Membership	
Elementary	Percentage	Number
6	(-) 2.8%	(-) 20
16	(-) 1.7	(-) 4
23	(-) .8	(-) 7
27	(-) 1.0	(-) 5
31	(-) .9	(-) 1
36	(-) 4.2	(-) 35
40	(-) 2.4	(-) 8
42	(-) 3.8	(-) 9
49	(-) 1.8	(-) 4
52	(-) .5	(-) 5
62	(-) 3.7	(-) 32
Special		
24	(-) .7	(-) 2
Child Care	(-) .9	0
IHM	(-) 3.0	(-) 2
Vocational & Technical		
McKinley	(-) .9	(-) 8

Plaintiffs' Exhibit 6.

ELEMENTARY SCHOOLS

School	Date	Black Pupils		Spanish-Surnamed Pupils		Other Pupils		TOTAL
		Number	Percent	Number	Percent	Number	Percent	
1	10/73	166	26.6	239	38.2	[illegible]	35.2	625
	10/72	124	20.8	219	36.7	[illegible]	42.5	596
	1/66	135	18.3	104	14.1	500	67.6	739
3	10/73	122	23.3	121	23.2	280	53.5	523
	10/72	113	21.1	113	21.1	310	57.8	536
	1/66	106	16.7	35	5.6	493	77.7	634
4	10/73	454	61.0	91	12.2	199	26.8	744
	10/72	512	65.0	87	11.0	189	24.0	788
	1/66	542	54.8	66	6.7	380	38.5	988
6	10/73	755	94.3	46	5.7	0	0	801
	10/72	705	91.5	66	8.5	0	0	771
	1/66	1,075	93.5	55	4.7	19	1.8	1,149
8	10/73	777	99.9	0	0	1	.1	778
	10/72	909	99.5	0	0	5	.5	914
	1/66	1,269	100.0	0	0	0	0	1,269
9	10/73	150	28.1	2	.4	382	71.5	534
	10/72	110	18.7	5	.8	476	80.5	591
	1/66	3	.5	0	0	574	99.5	577
11	10/73	43	1.0	0	0	398	99.0	441
	10/72	44	9.2	1	.2	430	90.6	475
	1/66	12	2.1	1	.1	569	97.8	582
12	10/73	230	100.0	0	0	0	0	230
	10/72	272	99.7	0	0	1	.3	273
	1/66	408	98.1	1	.2	7	1.7	416
16	10/73	174	88.0	4	2.0	19	10.0	197
	10/72	181	84.6	8	3.7	25	11.7	214
	1/66	313	83.9	5	1.3	55	14.8	373
17	10/73	465	99.4	0	0	3	.6	468
	10/72	510	98.7	2	.3	5	1.0	517
	1/66	726	99.6	1	.1	2	.3	729
18	10/73	24	5.5	19	4.3	395	90.2	438
	10/72	6	1.3	16	3.4	442	95.3	464
	1/66	38	5.7	4	.6	626	93.7	668

Plaintiffs' Exhibit 6.

School	Date	Black Pupils		Spanish-Surnamed Pupils		Other Pupils		TOTAL
		Number	Percent	Number	Percent	Number	Percent	
19	10/73	56	9.4	14	2.4	523	88.2	593
	10/72	48	7.6	12	1.9	565	90.5	625
	1/66	28	3.2	3	.3	854	96.5	885
21	10/73	73	21.5	0	0	267	78.5	340
	10/72	82	22.5	0	0	282	77.5	364
	1/66	8	1.7	0	0	453	98.3	461
22	10/73	94	20.8	1	.2	357	79.0	452
	10/72	96	21.4	0	0	351	78.6	447
	1/66	1	.2	0	0	413	99.8	414
23	10/73	694	91.4	3	.4	62	8.2	759
	10/72	708	86.8	10	1.2	98	12.0	816
	1/66	110	14.5	0	0	650	85.5	760
25	10/72	—	—	—	—	—	—	—
	10/71	—	—	—	—	—	—	—
	1/66	—	—	—	—	85	100.0	85
26	10/73	20	4.9	12	3.0	374	92.1	406
	10/72	29	7.6	11	2.8	342	89.6	382
	1/66	24	4.2	6	1.1	539	94.7	569
27	10/73	2	.3	2	.3	631	99.4	635
	10/72	2	.3	7	1.3	532	98.4	541
	1/66	0	0	0	0	336	100.0	336
28	10/73	31	5.2	39	6.6	522	88.2	592
	10/72	32	5.0	28	4.4	578	90.6	638
	1/66	36	4.5	40	5.0	726	90.5	802
29	10/73	5	.7	38	5.3	690	94.0	733
	10/72	4	.5	43	5.7	711	93.8	758
	1/66	0	0	20	2.3	837	97.7	857
30	10/73	11	5.8	2	1.0	177	93.2	190
	10/72	10	4.7	3	1.4	200	93.9	213
	1/66	1	.5	0	0	218	99.5	219
31	10/73	828	99.2	0	0	7	.8	835
	10/72	762	99.4	1	.1	4	.5	767
	1/66	1,267	96.7	12	.9	31	2.4	1,310

Plaintiffs' Exhibit 6.

School	Date	Black Pupils		Spanish-Surnamed Pupils		Other Pupils		TOTAL
		Number	Percent	Number	Percent	Number	Percent	
Build	10/73	575	99.7	0	0	2	.3	577
	10/72	545	99.5	0	0	3	.5	548
	1/66	300	95.8	10	3.2	3	1.0	313
33	10/73	18	3.5	27	5.2	471	91.3	516
	10/72	30	5.8	23	4.4	463	89.8	516
	1/66	25	4.7	12	2.2	500	93.1	537
34	10/73	13	4.6	25	8.8	245	86.6	283
	10/72	7	2.6	21	7.8	241	89.6	269
	1/66	30	11.5	4	1.6	226	86.9	260
36	10/73	21	5.7	116	31.5	231	62.8	368
	10/72	18	4.2	151	35.7	255	60.1	424
	1/66	17	3.2	35	6.5	482	90.3	534
37	10/73	808	99.8	1	.1	1	.1	810
	10/72	986	100.0	0	0	0	0	986
	1/66	1,441	99.0	0	0	14	1.0	1,455
38	10/73	50	7.8	33	5.2	554	87.0	637
	10/72	59	8.7	17	2.4	606	88.9	682
	1/66	3	.4	10	1.4	704	98.2	717
39	10/73	927	100.0	0	0	0	0	927
	10/72	1,001	99.9	0	0	1	.1	1,002
	1/66	1,031	98.2	0	0	19	1.8	1,050
40	10/73	75	25.9	5	1.7	210	72.4	290
	10/72	69	22.0	13	4.1	233	73.9	315
	1/66	50	11.4	3	.7	386	87.9	439
41	10/73	370	99.7	1	.3	0	0	371
	10/72	420	99.1	1	.2	3	.7	424
	1/66	733	98.4	0	0	12	1.6	745
42	10/73	59	24.4	9	3.7	174	71.9	242
	10/72	51	21.3	18	7.5	170	71.2	239
	1/66	75	12.9	11	1.9	496	85.2	582
43	10/73	26	2.7	1	.1	920	97.2	947
	10/72	31	3.1	4	.4	945	96.5	980
	1/66	11	1.1	0	0	1,020	98.9	1,031

Plaintiffs' Exhibit 6.

School	Date	Black Pupils		Spanish-Surnamed Pupils		Other Pupils		TOTAL
		Number	Percent	Number	Percent	Number	Percent	
44	10/73	202	27.4	5	.7	530	71.9	737
	10/72	198	25.9	5	.6	562	73.5	765
	1/66	18	2.7	0	0	639	97.3	657
45	10/73	67	7.2	16	1.7	848	91.1	931
	10/72	54	6.1	11	1.2	820	92.7	885
	1/66	1	.1	2	.2	938	99.7	941
47	10/73	272	100.0	0	0	0	0	272
	10/72	322	100.0	0	0	0	0	322
	1/66	623	98.6	0	0	9	.4	632
48	10/73	396	99.7	0	0	1	.3	397
	10/72	507	99.7	0	0	2	.3	509
	1/66	830	97.4	2	.2	21	2.4	853
49	10/73	2	1.0	12	6.2	179	92.8	193
	10/72	0	0	16	8.0	185	92.0	201
	1/66	0	0	9	4.3	200	95.7	209
51	10/73	36	8.4	4	.9	388	90.7	428
	10/72	57	13.6	3	.7	357	85.7	417
	1/66	0	0	0	0	650	100.0	650
52	10/73	47	6.8	7	1.0	637	92.2	691
	10/72	62	8.0	12	1.5	710	90.5	784
	1/66	11	1.1	1	.1	980	98.8	992
53	10/73	878	99.7	2	.2	1	.1	881
	10/72	1,023	99.3	5	.5	2	.2	1,030
	1/66	1,342	99.2	1	.1	10	.7	1,353
54	10/73	414	66.2	11	1.8	200	32.0	625
	10/72	429	64.6	7	1.0	229	34.4	665
	1/66	391	56.0	3	.4	304	43.6	698
56	10/73	140	30.8	18	4.0	296	65.2	454
	10/72	134	27.8	7	1.4	341	70.8	482
	1/66	59	9.0	1	.2	592	90.8	652
57	10/73	137	48.4	2	.7	144	50.9	283
	10/72	147	49.2	3	1.0	149	49.8	299
	1/66	128	40.9	0	0	185	59.1	313

Plaintiffs' Exhibit 6.

School	Date	Black Pupils		Spanish-Surnamed Pupils		Other Pupils		TOTAL
		Number	Percent	Number	Percent	Number	Percent	
59	10/73	562	97.6	4	.7	10	1.7	576
	10/72	683	98.9	1	.1	7	1.0	691
	1/66	745	86.3	0	0	118	13.7	863
60	10/73	3	.5	10	1.6	620	97.9	633
	10/72	31	4.5	12	1.7	645	93.8	688
	1/66	1	.1	7	.7	938	99.2	946
61	10/73	541	77.3	5	.7	154	22.0	700
	10/72	459	69.3	3	.4	201	30.3	663
	1/66	21	2.8	0	0	731	97.2	752
62	10/73	712	92.5	0	0	58	7.5	770
	10/72	676	78.6	32	3.7	153	17.7	861
	1/66	104	14.1	0	0	634	85.9	738
63	10/73	86	15.5	0	0	469	84.5	555
	10/72	62	10.5	0	0	524	89.5	586
	1/66	35	5.5	0	0	605	94.5	640
64	10/73	81	24.3	4	1.2	248	74.5	333
	10/72	79	23.9	0	0	251	76.1	330
	1/66	20	5.4	0	0	353	94.6	373
65	10/73	47	12.3	4	1.1	330	86.6	381
	10/72	43	12.3	2	.5	305	87.2	350
	1/66	3	.5	0	0	618	99.5	621
66	10/73	74	10.6	0	0	621	89.4	695
	10/72	75	10.5	1	.1	645	89.4	721
	1/66	11	1.4	0	0	783	98.6	794
67	10/73	34	5.1	10	1.5	626	93.4	670
	10/72	41	6.9	1	.1	552	93.0	594
	1/66	0	0	0	0	504	100.0	504
68	10/73	134	22.3	1	.2	465	77.5	600
	10/72	104	16.7	0	0	518	83.3	622
	1/66	44	6.0	0	0	690	94.0	734
69	10/73	57	10.6	0	0	479	89.4	536
	10/72	58	10.4	1	.1	498	89.5	557
	1/66	11	1.7	1	.1	648	98.2	660

Plaintiffs' Exhibit 6.

School	Date	Black Pupils		Spanish-Surnamed Pupils		Other Pupils		TOTAL
		Number	Percent	Number	Percent	Number	Percent	
70	10/73	0	0	6	1.4	427	98.6	433
	10/72	0	0	3	.7	394	99.3	397
	1/66	2	.5	0	0	430	99.5	432
71	10/73	59	17.2	4	1.2	279	81.6	342
	10/72	53	15.2	5	1.4	291	83.4	349
	1/66	64	14.2	2	.5	384	85.3	450
72	10/73	3	.4	6	.7	821	98.9	830
	10/72	3	.3	3	.3	826	99.4	832
	1/66	0	0	2	.2	835	99.8	837
73*	10/73	16	59.3	1	3.7	10	37.0	27
	10/72	----	----	----	----	----	----	----
	1/66	61	15.3	160	40.1	178	44.6	399
74	10/73	625	98.7	1	.2	7	1.1	633
	10/72	692	100.0	0	0	0	0	692
	1/66	1,042	99.8	0	0	2	.2	1,044
75	10/73	360	99.2	3	.8	0	0	363
	10/72	452	99.8	1	.2	0	0	453
	1/66	770	99.4	0	0	5	.6	775
76	10/73	45	8.3	286	52.9	210	38.8	541
	10/72	48	7.9	270	44.2	292	47.9	610
	1/66	147	18.4	104	13.0	547	68.6	798
77	10/73	44	5.8	70	9.3	640	84.9	754
	10/72	66	9.0	29	3.9	636	87.1	731
	1/66	7	.8	8	1.0	824	98.2	839
78	10/73	293	41.3	7	1.0	410	57.7	710
	10/72	224	31.2	4	.5	490	68.3	718
	1/66	61	8.1	0	0	689	91.9	750
79	10/73	35	10.9	3	.9	282	88.1	320
	10/72	44	12.4	3	.8	309	86.8	356
	1/66	52	7.0	0	0	688	93.0	740
80	10/73	53	16.5	0	0	269	83.5	322
	10/72	66	17.5	0	0	310	82.5	376
	1/66	12	2.4	0	0	479	97.6	491
81	10/73	86	12.6	1	.2	595	87.2	682
	10/72	73	10.6	2	.2	615	89.2	690
	1/66	12	1.4	0	0	861	98.6	873

* School 73 was closed from 6/30/70 to 9/1/73

Plaintiffs' Exhibit 6.

School	Date	Black Pupils		Spanish-Surnamed Pupils		Other Pupils		TOTAL
		Number	Percent	Number	Percent	Number	Percent	
82	10/73	421	52.1	0	0	387	47.9	808
	10/72	326	42.2	0	0	445	57.8	771
	1/66	50	6.6	1	.1	710	93.3	761
83	10/73	3	2.3	0	0	127	97.7	130
	10/72	6	3.5	0	0	161	96.5	167
	1/66	0	0	0	0	223	100.0	223
85	10/73	151	55.3	4	1.5	118	43.2	273
	10/72	133	41.1	0	0	190	58.9	323
	1/66	29	9.8	0	0	302	91.2	331
86	10/73	26	8.4	0	0	284	91.6	310
	10/72	19	5.6	0	0	318	94.4	337
	1/66	4	1.4	0	0	290	98.6	294
88	10/73	2	1.6	2	1.6	125	96.8	129
	10/72	2	1.4	2	1.4	134	97.2	138
	1/66	0	0	0	0	181	100.0	181
90	10/73	509	88.8	3	.5	61	10.7	573
	10/72	510	84.5	3	.4	91	15.1	604
	1/66	238	34.4	0	0	454	65.6	692
93	10/73	99	100.0	0	0	0	0	99
	10/72	122	100.0	0	0	0	0	122
	1/66	247	100.0	0	0	0	0	247
TOTALS Elementary	10/73	15,868	41.9	1,363	3.6	20,671	54.5	37,902
	10/72	16,559	41.6	1,327	3.3	21,877	55.1	39,763
	1/66	17,014	34.7	742	1.2	31,461	64.1	49,217

Plaintiffs' Exhibit 6.

SPECIAL SCHOOLS

		Black Pupils		Spanish-Surnamed Pupils		Other Pupils		
School	Date	Number	Percent	Number	Percent	Number	Percent	TOTAL
24	10/73	91	46.4	5	2.6	100	51.0	196
	10/72	98	46.9	7	3.3	104	49.8	209
	1/66	65	35.3	7	4.0	112	60.7	184
35	10/73	75	94.9	1	1.3	3	3.8	79
	10/72	35	100.0	0	0	0	0	35
	1/66	36	94.7	1	2.7	1	2.6	38
50	10/73	99	100.0	0	0	0	0	99
	10/72	100	100.0	0	0	0	0	100
	1/66	146	94.2	6	3.9	3	1.9	155
84	10/73	36	16.1	4	1.8	184	82.1	224
	10/72	45	19.1	4	1.6	187	79.3	236
	1/66	23	12.4	2	1.0	161	86.6	186
Child	10/73	12	41.4	1	3.4	16	55.2	29
Care	10/72	8	34.8	1	4.3	14	60.9	23
Center	1/66	----	----	----	----	----	----	----
Immaculate	10/73	7	14.3	1	2.0	41	83.7	49
Heart of	10/72	9	15.0	3	5.0	48	80.0	60
Mary Home	1/66	----	----	----	----	----	----	----
St.	10/73	24	96.0	0	0	1	4.0	25
Augustine	10/72	22	100.0	0	0	0	0	22
	1/66	----	----	----	----	----	----	----
TOTALS	10/73	344	49.1	12	1.7	345	49.2	701
Special	10/72	317	46.3	15	2.2	353	51.5	685
Schools	1/66	270	34.4	16	18.3	277	47.3	563

34C
20,671
21,016

Plaintiffs' Exhibit 6.

MIDDLE AND JUNIOR HIGH SCHOOLS

School	Date	Black Pupils		Spanish-Surnamed Pupils		Other Pupils		TOTAL
		Number	Percent	Number	Percent	Number	Percent	
Fillmore	10/73	682	88.0	8	1.0	85	11.0	775
Middle	10/72	696	81.8	6	.7	149	17.5	851
	1/66	397	42.4	3	.3	537	57.3	937
West	10/73	322	27.5	10	.9	837	71.6	1,169
Hertel	10/72	310	26.1	11	.9	868	73.0	1,189
	1/66	---	----	----	----	---	----	-----
Clinton	10/73	831	98.2	15	1.8	0	0	846
Junior	10/72	794	98.6	11	1.4	0	0	805
	1/66	1,122	96.8	25	2.1	13	1.1	1,160
Genesee	10/73	924	90.1	8	.8	93	9.1	1,025
Humboldt	10/72	698	80.7	7	.8	160	18.5	865
Junior	1/66	346	31.5	2	.2	749	68.3	1,097
Southside	10/73	150	11.5	52	3.9	1,107	84.6	1,309
Junior	10/72	221	15.6	50	3.5	1,144	80.9	1,415
	1/66	---	----	----	----	-----	----	-----
Woodlawn	10/73	763	99.5	1	.1	3	.4	767
Junior	10/72	796	99.9	1	.1	0	0	797
	1/66	1,347	99.2	1	.1	10	.7	1,358
TOTALS								
Middle and	10/73	3,672	62.3	94	1.6	2,125	36.1	5,891
Junior High	10/72	3,515	59.4	86	1.5	2,321	39.1	5,922
Schools	1/66	3,212	70.6	31	.7	1,309	28.7	4,552

Plaintiffs' Exhibit 6.

ACADEMIC HIGH SCHOOLS

School	Date	Black Pupils		Spanish-Surnamed Pupils		Other Pupils		TOTAL
		Number	Percent	Number	Percent	Number	Percent	
Bennett	10/73	696	43.3	11	.7	899	56.0	1,606
	10/72	602	37.6	12	.8	985	61.6	1,599
	1/66	553	27.0	3	.1	1,494	72.9	2,050
East	10/73	1,615	98.6	7	.4	17	1.0	1,639
	10/72	1,370	98.3	0	0	23	1.7	1,393
	1/66	1,638	90.1	23	1.3	157	8.6	1,818
Grover Cleveland	10/73	258	22.7	207	18.1	674	59.2	1,139
	10/72	333	27.0	216	17.5	686	55.5	1,235
	1/66	96	6.6	68	4.7	1,289	88.7	1,453
Kensington	10/73	827	43.0	3	.2	1,093	56.8	1,923
	10/72	795	36.2	6	.3	1,396	63.5	2,197
	1/66	40	2.0	0	0	1,959	98.0	1.999
Lafayette	10/73	480	41.7	8	.7	664	57.6	1,152
	10/72	554	40.5	11	.8	802	58.7	1,367
	1/66	264	17.3	1	.1	1,257	82.6	1,522
Riverside	10/73	220	14.3	12	.8	1,301	84.9	1,533
	10/72	315	17.2	12	.6	1,506	82.2	1,833
	1/66	25	1.3	1	.1	1,804	98.6	1,830
South Park	10/73	197	10.2	48	2.5	1,683	87.3	1,928
	10/72	265	10.8	68	2.8	2,119	86.4	2,452
	1/66	129	4.9	26	1.0	2,494	94.1	2,649
TOTALS Academic High Schools	10/73	4,293	39.3	296	2.7	6,331	58.0	10,920
	10/72	4,234	35.1	325	2.7	7,517	62.2	12,076
	1/66	2,745	20.6	122	.9	10,454	78.5	13,321

Plaintiffs' Exhibit 6.

VOCATIONAL HIGH SCHOOLS

School	Date	Black Pupils		Spanish-Surnamed Pupils		Other Pupils		TOTAL
		Number	Percent	Number	Percent	Number	Percent	
Boys*	10/73	---	---	---	---	---	---	---
	10/72	---	---	---	---	---	---	---
	1/66	54	28.0	10	5.2	129	66.8	193
Burgard	10/73	448	40.6	57	5.2	598	54.2	1,103
	10/72	398	36.1	38	3.4	667	60.5	1,103
	1/66	212	21.5	14	1.4	761	77.1	987
Emerson	10/73	244	43.6	2	.4	314	56.0	560
	10/72	246	45.0	2	.3	299	54.7	547
	1/66	166	28.6	1	.2	413	71.2	580
Fosdick-Masten	10/73	574	97.8	2	.3	11	1.9	587
	10/72	589	97.2	2	.3	15	2.5	606
	1/66	602	75.2	2	.2	197	24.6	801
Hutchinson-Central Technical	10/73	210	18.7	13	1.1	902	80.2	1,125
	10/72	188	16.4	11	1.0	945	82.6	1,144
	1/66	114	10.2	0	0	1,006	89.8	1,120
McKinley	10/73	213	18.4	22	1.9	922	79.7	1,157
	10/72	200	16.6	34	2.8	973	80.6	1,207
	1/66	68	13.8	3	.6	422	85.6	493
Seneca	10/73	218	19.6	4	.4	891	80.0	1,113
	10/72	232	19.2	9	.7	966	80.1	1,207
	1/66	84	8.1	2	.2	948	91.7	1,034
TOTALS Vocational High Schools	10/73	1,907	33.8	100	1.8	3,638	64.4	5,645
	10/72	1,853	31.9	96	1.7	3,865	66.4	5,814
	1/66	1,300	25.0	32	.6	3,876	74.4	5,208

* Closed June 1969

Plaintiffs' Exhibit 6.

DISTRIBUTION OF AMERICAN INDIAN PUPILS 1973-74

Number of Pupils	Schools	Number of Schools
0	6 8 11 12 16 21 22 23 27 Build 37 39 40 41 47 48 50 53 59 62 66 68 69 72 90 93 Child Care 35 St. Augustine Clinton IHM East Fosdick	41
1	17 31 54 57 61 63 64 65 74 78 84 Fillmore Genesee Woodlawn Emerson Seneca	16
2	34 71 82 83 Riverside South Park	6
3	24 67	2
4	29 43 44 60 West Hertel Bennett Kensington	7
5	33 42 70	3
6-10	4 (7) 26 (8) 28 (7) 30 (6) 51 (7) 56 (6) Southside (8) Lafayette (10) Burgard (9) Hutchinson (6)	10
11-24	3 (17) 9 (11) 18 (14) 19 (12) 45 (22) 49 (20) 52 (24) McKinley (11)	8
25+	1 (30) 36 (60) 38 (27) 76 (44) 77 (32) Grover (41)	6
516	TOTALS	99

Plaintiffs' Exhibit 6.

DISTRIBUTION OF ORIENTAL PUPILS 1973-74

Number of Pupils	Schools	Number of Schools
0	3 4 6 8 11 12 16 17 18 19 21 23 24 27 31 Build 33 34 35 37 39 40 41 42 43 44 47 48 50 51 53 57 59 60 61 62 65 67 68 69 71 72 73 74 75 76 77 79 80 84 86 90 93 IHM Child Care St. Augustine Clinton Fillmore Riverside Genesee Woodlawn East Emerson Fosdick South Park Burgard	66
1	26 28 29 38 64 66 83 85 Hutchinson Southside West Hertel Lafayette McKinley Seneca	14
2	1 9 22 36 49 54 56 70 81 82 Bennett	11
3	30 88	2
4	63 78 Grover Cleveland Kensington	4
5	45 52	2
6-10		
11-24		
68	TOTALS	99

Plaintiffs' Exhibit 6.

DISTRIBUTION OF SPANISH-SURNAMED PUPILS 1973-74

Number of Pupils	Schools	Number of Schools
0	8 11 12 17 21 31 Build 39 47 48 50 52 63 66 69 80 82 83 86 93 St. Augustine	21
1	22 35 37 41 43 68 73 74 81 Child Care Woodlawn IHM	12
2	9 27 30 53 57 88 Emerson Fosdick	8
3	23 75 79 90 Kensington	5
4	16 51 59 64 65 71 84 85 Seneca	9
5	24 40 44 61	4
6	70 72	2
7	52 78 East	3
8-10	42 (9) 60 (10) 67 (10) Fillmore (8) Genesee Humboldt (8) West Hertel (10) Lafayette (8)	7
11-24	18 (19) 19 (14) 26 (11) 45 (16) 49 (12) 54 (11) 56 (18) Clinton (15) Bennett (11) Riverside (12) Hutchinson (13) McKinley (22)	12
25+	1 (239) 3 (121) 4 (91) 6 (46) 28 (39) 29 (38) 33 (27) 34 (25) 36 (116) 38 (33) 76 (286) 77 (70) Southside (52) Grover (207) South Park (48) Burgard (57)	16
1,865	TOTALS	99

1361

Plaintiffs' Exhibit 10.

CIVIL RIGHTS U. S. A.

PUBLIC SCHOOLS

CITIES IN THE NORTH AND WEST

1963

BUFFALO

By George J. Alexander

Staff Report Submitted To

THE UNITED STATES COMMISSION ON CIVIL RIGHTS

and Authorized for Publication

Plaintiffs' Exhibit 10.

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Plaintiffs' Exhibit 10.

Introduction: Buffalo--City of Good Neighbors

Buffalo, New York, is the second largest city[1] in the second most populous State in the country.[2] It has, in some respects, the largest problem of school segregation in the State.[3]

Buffalo prides itself on being the "City of Good Neighbors." If the bromide that "good fences make good neighbors" has any validity, then Buffalo indeed is correctly described. Figurative fences contain homes of the Negro population within well-defined geographic limits; school zone boundary lines are equally firm and effective in restricting school attendance.[4]

The Negro population of Buffalo has had recent explosive growth. In the period 1950 to 1960 it rose from a little over 6 percent of the city's population to more than twice that figure.[5] In 1950, much of the Negro population was concentrated in what is called the Ellicott district which still remains an area of heavy Negro concentration. With the advent of redevelopment in the Ellicott area, a substantial migration occurred which resulted in another heavy concentration in the Cold Springs area.[6] From these two districts radiate the threads of Negro population. In most places, a reasonably well-defined geographic boundary limits invasion into white residential areas.

The focus of this report is segregation in public schools. Therefore, little more will be said of the housing problem. A study has not been undertaken to determine whether real estate practices or the acquiescence of the Negro community maintain the existing fences. For purposes of school segregation the cause of Negro residential confinement seems to be immaterial. It is clear that no governmental authority established the boundaries, although opinion as to the State's action to counter housing segregation varies.

It seems clear that Negro families have not bought homes outside of the accepted Negro residential areas and that the State's 1961 antidiscrimination law will not materially help those who want to do so within the city limits.[7]

In seeking background for this study the author interviewed a Negro couple, both of whom are physicians and prominent civic leaders. They told the author, they had made unsuccessful attempts to buy a home in several areas of the city. Although in disagreement with the attitudes that maintain it, the couple now appears to be resigned to the Buffalo housing pattern.

Negro leaders assert that the Negro is deprived of his right to live where he chooses, but few seem to be actively

attempting to overcome discrimination in housing. One gets the impression that Buffalo Negroes are, in this respect, quite willing to be good neighbors.

The attitudes and competence of the people involved in public education in Buffalo make it easy for Negroes to be good neighbors. No person in authority either in the superintendent's office or on the Board of Education has publicly taken an anti-Negro stand, which is not surprising in a northern city. None is even suspected of racial bias, at least by any of the people interviewed for this report. In view of the extent of racial segregation in the schools, this is more surprising. A brief review of the background of the people involved may, however, make it comprehensible.

The Superintendent of Schools, Dr. Joseph Manch, quite aside from his excellent reputation as an educator and administrator, has a substantial reputation as a community leader opposed to unequal treatment of minority groups. He is vice-president of the Buffalo Urban League, vice-chairman of the western New York regional advisory board of the Anti-Defamation League of B'nai B'rith, and a member of the local branch of the NAACP. He appears to be active in all these capacities. His viewpoint on the question of equality in education is well-known to the people in the school system and to the public at large.[8] Under his direction a considerable effort is directed toward promotion of educational equality.[9] A substantial number of publications from his office advocate brotherhood and identify equality of educational opportunity as a primary goal of Buffalo schools.[10] He is a recipient of citations for his good work by the Freedoms Foundation,[11] the Buffalo Urban League,[12] the Buffalo Evening News,[13] and the National Conference of Christians and Jews.[14] All of the leaders in the Negro community who were interviewed, declared him to be a man of good will dedicated to the principle of equality. Quite a few were willing to subscribe, in addition, to the broader proposition that Dr. Manch was doing all that could be done under the circumstances.

Dr. Lillian A. Wilcox, Associate Superintendent for School-Community Coordination, handles most problems related to equal opportunity. She is an active participant in community affairs and chairman of the Council on Community Understanding. Her work in the area of inter-group relations has also been recognized by an award.[15]

While these two members of the department of education have been more involved with the public than the others, none of the members of the office is in ill-repute with leaders in the equality movement.

The leadership in promoting Negro rights with respect to school integration in Buffalo seems to have been assumed almost entirely by the local branch of the NAACP. The president of that branch at the time of this study was Raphael DuBard. Mr. DuBard is, of course, firmly dedicated

to equality of educational opportunity for Negroes. He and other members of the branch have been compiling information on segregation in public schools and have engaged in discussion of the problem with members of the superintendent's staff. He appears, however, to be a man who believes in moderation.

The Board of Education, which is ultimately responsible for most of the major decisions which might reduce school segregation seems to be highly regarded as a group. Criticism by Negro leaders leveled at the slow pace of progress is impersonal for the most part. The members of the board appear to share in the good relations that exist between the NAACP and the superintendent's office. Indeed a few members of the board are looked to for leadership in school integration.

Mrs. Alfreda W. Slominski and Dr. Lydia T. Wright, the newest additions to the Board of Education, have been actively interested in investigating the present status of education in Buffalo with an eye to racial problems. The general feeling that they will make a significant contribution toward the solution of existing problems may be owing to their recent appointments. The other members of the board, by their longevity, do not give promise of speedy decisive action on their part to end racial segregation. If interest and activity are any indication, the confidence in Mrs. Slominski and Dr. Wright is well placed; there has not yet been an opportunity for them to initiate decisive action.

Everyone concerned with the problem of school integration in Buffalo agrees that a problem exists and that it should be solved.

The superintendent of schools, on the one hand, recognizes the desirability of racial integration in schools and says that it is unfortunate that more integration has not been achieved. He goes further and says that he has actively sought to achieve integration in the past and that he intends to continue to do so. He expresses annoyance at the prodding by the NAACP and others, not on the ground that the conditions complained of do not exist, but on the ground that he knows the facts and will solve the problems in due course without pressure.

The president of the board agrees in essence with the superintendent's position. He says the board is actively studying the problem of school integration and the means of eliminating the inequalities that exist. In his opinion, the board has acknowledged that the problem exists and that it is serious.

On the other hand, Mr. DuBard, while pressing for speedier action, expressed in an interview his feeling for the importance of moderation. His immediate objective is a statement by the board recognizing integration in the schools as a goal and the desirability of eliminating the present

de facto segregation. Unlike a number of other northern cities there has been no lawsuit filed in Buffalo,[16] and to date, no attempt has been made to complain to State educational authorities or to take other positive action seeking relief.[17] No one interviewed denied the possibility of a suit to end de facto segregation in Buffalo being filed later, but no one seemed prepared to do so now.

Plaintiffs' Exhibit 10.

Possible Effect of Optional Areas on Racial Composition Of Schools

In general, elementary pupils are assigned to attend the school in the district of their residence. An exception to this rule which permits residents of certain parts of a few districts to choose between two or more schools has been mentioned above. It is, of course, possible that the granting of transfer options in some but not all districts may raise a problem of equal protection of the law, irrespective of their racial impact. There exists a duality of classification. If the duality was completely arbitrary at its inception, it is unconstitutional. It should be noted, however, that in cases in which the existence of a double standard has not resulted in racial, religious or financial discrimination, the courts have shown great reluctance to interfere with local administration and an enviable facility at finding a reasonable basis for distinction.

A further attenuation of the problem exists if one assumes the reasonableness of the dual standard at the time it was initiated, but finds a deterioration of the reason with the passage of time. Where racial segregation results, failure to review prior distinctions may raise a constitutional question.[50] In less sensitive subject areas, there is reason to doubt constitutional interference. Clearly, if there is presently a rational basis for the distinction made, it is constitutional. The information gathered does not indicate into which of the above mentioned hypotheses Buffalo's optional transfer privileges fit.

The granting of an exception to the residents of certain areas might, for example, be justified by the distance between their homes and the district school. Some of the optional areas in Buffalo appear to be about equidistant from the district school and the optional school; some optional areas are closer to the optional school. Both situations, however, exist in many other areas in Buffalo where the residents have no option.

If there is any reason other than history or tradition for the continued existence of the optional areas, the superintendent did not advance it when queried by the author on the specific point. To the extent that the continuation of optional transfer reinforces or increases segregation, the insufficiency of the rationale for optional zones may be relevant in demonstrating improper motivation in inaction which results in segregation. This, in turn, may make out a valid claim under otherwise equivocal circumstances.

The complaint of the NAACP that the operation of the optional transfer caused school 17 to be 98 percent Negro was mentioned earlier.[51] The probable validity of the NAACP's claim as to school 17 led to an examination of the racial composition of the enrollment in all schools affected by optional attendance areas.[52]

It should be pointed out that an unknown factor--private school attendance--also may affect the racial composition of a particular school. For example, the population of a small optional area, such as the western optional area in district 17, may be heavily Catholic and the Catholic children living there may attend a parochial school rather than school 56. If this were true, the Negro concentration in school 17 would result in large part from that circumstance rather than from the existence of the optional area.[53] According to the 1960 census 37.6 percent of the total elementary school enrollment in Buffalo is in private schools.[54]

Only a head count by race showing the school attended by out-of-district pupils, such as was done in 1962 by the superintendent of Philadelphia public schools for the report on Philadelphia to the U.S. Commission on Civil Rights,[55] could provide an indisputable answer. But an analysis showing the racial composition of the schools in the district in which the optional areas are located and of the schools which pupils may elect to attend is suggestive. Such an analysis is shown in appendix D.

Before examining the available facts as to the effect of the optional attendance areas on the racial composition of schools, the legal questions will be discussed briefly.

There is no direct authority holding that the creation of optional areas, such as exist in Buffalo, is unconstitutional even if the result is to accentuate racial imbalance in the schools. The cases discussed below, however, raise doubts as to their constitutionality and suggest further that the school board has the burden of justifying their continued existence.

The school board might argue that segregation results from the individual choice of each pupil who exercises or fails to exercise his option, not from the action of the school board in granting the option. Such an argument was made to the court and rejected In The Matter of Skipwith,[56] which concerned teachers rather than pupils, because the power of assignment was vested in the school authorities. Here also the power is in the school board, although it permits some pupils a choice of school.

The constitutionality of the granting of a transfer right on the basis of race is now pending before the Supreme Court.[57] Whether the Sixth Circuit rule upholding such

transfers will be sustained is not now known.[58] The Commission suggested in its 1961 Education Report[59] that the rule should be held unconstitutional because it permits all white students to transfer out of formerly or predominantly Negro schools, leaving an all Negro enrollment again, and that such a result invalidated the rule. Similarly, in Buffalo, if the racial character of an optional area is different from the racial character of the rest of the school district, the exercise of the option by students may be the cause of virtually all-white or all-Negro schools. This should be sufficient to condemn it as unconstitutional, unless the granting of the choice can be justified on non-racial grounds.

The fact that the option itself is granted to all residents of a geographic area would seem to be immaterial if the racial imbalance in the area is marked.[60] If most of the residents of an optional area are of one race, and the school district generally is another race, the fact that pro forma the option is granted geographically may be immaterial.

Although in Taylor v. Board of Education (New Rochelle),[61] the court ordered the school board to allow pupils resident in one elementary school attendance area to transfer to any other elementary school in the city, the case is not authority for such an action without cause. The basis for the order in New Rochelle was findings of previous wrongdoing. The court found that the board had gerrymandered the zone for the school many years before and changed the boundaries from time to time to contain the growing Negro population within the school; further, that the board had assured the racial character of the school by permitting white students to transfer out, and finally, when it withdrew all transfer rights, it had maintained the status quo, i.e., a predominantly Negro school. Thus New Rochelle is not authority for a general proposition that an option may be granted to the residents of one area and not to residents of others. The justification for the option there is the previous wrongful action of the board.[62]

OPTIONAL AREAS HAVING NO APPARENT RACIAL EFFECT

The figures show that the choice of schools granted to those living in the optional area located in districts 68, 71, 64, 43, 57, and 29 could not have any marked effect on segregation or integration of schools. The optional area in each case is shown by the census to lie in a less than 5 percent Negro tract. Both schools affected by the option are all white or nearly all white in enrollment. The other 4 optional areas, however, require further examination. Caution is required, however, in interpreting the following discussion concerning the racial composition of housing.

The census tracts from which the composition is derived deal with areas too large to be precise as to sections as small as the optional zones.

OPTIONAL AREAS IN DISTRICT 17

This district is composed of three triangular areas of about equal size but of markedly different racial composition. The 1960 census shows the northern triangle to lie in an area that is 5-29 percent Negro, the eastern half of the portion south of the cemetery to be located in a tract over 80 percent Negro, and the western half to be in a section less than 5 percent Negro. The northern triangle is designated optional area 17a in appendix D.

The residents of optional area 17a may attend schools 17, 54, or 74. Since there are only 16 white pupils enrolled in schools 17 and 74, which combined have over 1,300 Negro pupils, the white pupils residing in optional area 17a either attended school 54 or private or parochial schools. Some Negro pupils from the optional area may also attend school 54 since it is about 34 percent Negro, which is a higher proportion than the census tract designation of 5-29 percent Negro would lead one to expect, although in general the Negro public school enrollment is higher than the proportion in the general population. Any inference is speculative with so large a spread between the upper and lower limits of the census classification.[63]

The other optional area in district 17, designated 17b in the table, falls in a less than 5 percent Negro section in the population. The residents of this area may opt for schools 56 and 16. The enrollment of school 56 is almost all white, as is the population of the school district. The portion of district 16 east of Main Street (in area about one-fifth of the district) is over 80 percent Negro and the school is 61 percent Negro. Clearly the white residents of optional area 17b will be found in school 56, not 16 nor 17, if they attend public school at all.

OPTIONAL AREA IN DISTRICT 31

This optional area presents another case where it appears that the white residents exercise their right not to attend the predominantly Negro district school and choose school 40, which is predominantly white. Slightly more than one-half of the total area of district 31 is in a 50-80 percent Negro census tract; the rest, which includes the optional area, is in one less than 5 percent Negro. Since about half of district 40 is in a 5-29 percent Negro section, and a few blocks in the 50-80 percent classification, school 40 is about 90 percent white, and school 31, 94 percent Negro, the racial composition of school 40 seems to be related to

the choice made by the white residents of optional area 31. It may also be that Negro residents of the optional area in district 40 opt out.

OPTIONAL AREA IN DISTRICT 40

District 40 itself contains an optional area where the residents may choose school 40 or 75. This optional area is in a 5-29 percent Negro tract. The choice of school 75 by its Negro residents may help to keep school 40, 90 percent white.

As reported earlier the superintendent's reply to an inquiry about the effect of the option granted the residents of optional 17b on the racial composition of the enrollment in school 17 was that the optional areas existed long before segregation became a problem in the Buffalo schools.[64] Tradition and inertia are powerful forces in our society. They seem a weak excuse, however, for inaction.

SUMMARY

Eight schools are affected by the 4 optional areas discussed above, 17, 54, 74, 56, 16, 31, 40, and 75. Using the definition first used by New York City that schools 90 percent or more Negro and Puerto Rican in enrollment are "X" schools, those having 90 percent or more whites are "Y" schools, and only those having at least 10 percent whites and also at least 10 percent Negroes and Puerto Ricans in their enrollment are integrated schools, 4 of these schools would be classified as "X", 1 as "Y", and 3 as integrated schools. In other words, 5 out of 8 are highly segregated white or Negro schools. Another, school 40 which is 89 percent white, just barely qualifies as integrated. It seems possible that the elimination of these optional areas and an adjustment of boundary lines, if necessary to avoid overcrowding, might relieve the racial imbalance in these schools.

Where the question has been in issue, courts have held that school boards have no affirmative duty to bring about integration in the schools.[65] This is not the constitutional issue raised as to the Buffalo optional areas. Here the questions are: (1) Is there a justification for the continued existence of the optional areas? (2) Do they contribute to segregation in the schools? and (3) If they are not now justified or they contribute to segregation, does the school board have a duty to correct the situation?[66]

Plaintiffs' Exhibit 10.

Buffalo at the Crossroads

Buffalo is at a crossroad. One path leads to a continuation of the pattern of extensive school segregation; the other to less segregation. This is most apparent at the junior high school level. As suggested above, it even may be true that the crossroad has been passed and a step or two will have to be retraced if Buffalo wants to choose the path leading to integration. In any event, the opportunity to set up new junior high school districts, without the interference incident to changing long-established zones, gives the Board of Education a dramatic opportunity to change the racial pattern of schooling for three grades. The influence of an interracial experience in those three grades conceivably might affect higher grades as well.

The choices which must be made either actively or by default have been outlined above. The necessity of choice raises a question alluded to earlier: To what extent does the 14th amendment require a school board to seek to avoid segregation in setting school boundaries? The courts have not yet answered this question. Even if not required to take action to bring about integration, may a board take race into account in any of its actions? Racial integration is not apt to be achieved if race is not considered.[95] If prohibition of the use of color as a basis of classification[96] applies equally when the purpose is desegregation,[97] it would seem to follow that the board could not properly take the racial composition of any proposed school zone into account. The simplicity of the statement, however, may gloss over the basic constitutional issue. If classification by race for purposes of segregation is violative of the Constitution because it is constitutionally invalid to force an inferior status upon a citizen,[98] the presumption of inferiority inherent in a relegation to a separate school may be the specific subject of the interdiction against the use of race as a classifier. From this it would follow that a reasonable classification which included racial considerations, among others, would be exempt from constitutional sanctions.[99] Hence, school boards believing that schools with intercultural influences serve the goals of education in our Nation would be justified in considering the race, religion, or national origin of a proposed student group. Such classification is not tainted with the invalid assumption of inferiority and is based on what appears to be a reasonable educational objective: cultural heterogeneity. The argument is theoretical. It has not been the subject of judicial decision.

The Buffalo Board of Education probably need not be concerned with such constitutional niceties. It may be

sufficient for its purposes to note that there is now no indication in the law that racial consciousness, for the purposes of achieving integrated schools, is forbidden. As a part of the New York school system, Buffalo is subject to the mandate of the State Department of Education[100] and the declared policy of the State Board of Regents,[101] both of which expressly call for conscious efforts toward providing integrated schooling. The Buffalo board would seem to be bound by this State policy and thereby relieved of the responsibility of deciding what its own goals ought to be with respect to the racial composition of schools.

If the Board of Education hesitates to redraw school zone lines to achieve integration, another course of action might lead to the same result. Some people think that the degree of integration in the vocational schools, which are open to all youth in the city, suggests that open enrollment at the higher grade levels would achieve more integration in Buffalo than other schemes. Most of the responsible leaders in the Negro community and in the superintendent's office, however, view open enrollment with suspicion.

There does not appear to be adequate awareness either by the school authorities or by the NAACP of the imminence and importance of the decisions to be made.

In its presentation to the Board of Education, the NAACP pressed for a recognition of the inequality of the de facto segregated schooling and for the adoption of a plan that would eliminate it. As a third item, the zoning and feeder pattern for the new junior high schools were mentioned. This is the area that no doubt should have been emphasized because it involves the adoption of new boundaries rather than changing existing ones. The presentation, which coupled discussion of the general inequities of segregation with praise of the administration's present policies, did not seem calculated to produce immediate action. Indeed, the factual basis of the NAACP's commendation of the steps taken to achieve an equitable balance of experienced and new teachers in every school is not known. It was not borne out by the analysis of the placement of temporary and tenured teachers given above.[102]

The suggestions as to desegregation methods were general and not necessarily applicable to Buffalo. It may be that the failure of the NAACP to suggest specific remedies for the de facto segregation in Buffalo which has resulted from the neighborhood school policy left the impression that Buffalo shares a typical northern problem which is largely insoluble so long as housing segregation exists.

Inequities in some of the schools that are predominantly Negro seem to exist and probably will continue in spite of the best efforts of the administration because they probably relate to segregation itself. If the preponderance of temporary teachers in the predominantly Negro schools

results from the refusal of permanently licensed teachers to work in such schools, whatever deficiencies ensue may be irremediable.

Drawing the junior high school zones to form interracial school communities for that level does not resolve segregation in the rest of the school system, but it is the easiest zoning-to-achieve-integration solution presently available. Segregation in the elementary schools and in at least one of the academic high schools will ultimately have to be faced as an educational issue. The decision with respect to junior high school zones, however, cannot be delayed.

Dr. Manch holds out hope that Woodlawn Junior High School will be an integrated school. "The zone will cross Main Street if I have anything to say about it," he declares. If in spite of its location, Woodlawn can be made an integrated school; the same may be possible at Clinton. These are the new boundaries which must be drawn soon. If they contain only de facto segregated elementary school districts, even the most benevolent official policy will not bring about integration. If, on the other hand, the new junior high school zones break up the segregated elementary school pattern, and achieve integration at the intermediate level, the next step toward a true community school system, rather than a neighborhood school system, should be easier.

A-7

Plaintiffs' Exhibit 13

Board Meeting
February 14, 1973

Non-Whites As a Percentage of the Total Professional Staff

REPORT

The attached report was prepared in response to a request from the Board

Attachment

Prepared by

Claude D. Glass
Deputy Superintendent

Submitted by:

Joseph Manch
Superintendent of Schools

(7)

BEST COPY AVAILABLE

Plaintiffs' Exhibit 13.

Distribution of Negroes in Professional Staff

	1967-68	1968-69	1969-70	1970-71	1971-72	1972-73
Central Office Staff						
Superintendent	0	0	0	0	0	0
Deputy Superintendent	0	1	1	1	1	1
Associate Superintendent	1	0	0	0	0	0
Assistant Superintendent	0	0	0	0	0	0
Director	1	1	1	1	3	4
Supervisor	0	2	2	4	6	6
Psychologist	0	0	0	0	0	0
Attendance Teacher	1	0	0	0	0	0
Social Worker	0	1	2	2	4	4
Project Administrator	4	7	7	7	5	5
Tchrs. and Princs. Assigned	0	2	2	6	5	1
Sub-total Central Office	7	14	15	21	24	21
School Staff						
Principal	1	1	2	5	6	13
Assistant Principal	3	6	6	7	7	4
Other Staff	357	367	371	352	369	413
Sub-total Schools	361	374	379	364	382	430
Total Professional Staff	371	388	394	385	406	451

Notes:

1. "New Visions" -- Includes [illegible] Negro, Oriental and Spanish-Surnamed personnel
2. "School Staff" -- Area superintendents, principals, assistant principals
3. "Other Staff" -- Includes classroom teachers, special [illegible] teachers, counselors, librarians, etc.

February 8, 1973

Plaintiffs' Exhibit 13

Non-Whites As A Percent Of The Total Professional Staff

	1967-68	1968-69	1969-70	1970-71	1971-72	1972-73
Central Office Staff						
Superintendent	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
Deputy Superintendent	0.0	0.0	100.0	100.0	100.0	100.0
Associate Superintendent	20.0	0.0	0.0	0.0	0.0	0.0
Assistant Superintendent	0.0	0.0	0.0	0.0	0.0	0.0
Director	3.7	3.4	3.8	3.8	10.3	12.5
Supervisor	4.0	5.8	4.3	9.1	13.3	16.2
Psychologist	0.0	0.0	0.0	0.0	0.0	0.0
Attendance Teacher	0.4	0.0	0.0	0.0	0.0	0.0
Social Worker	0.0	4.5	7.7	8.6	15.8	15.3
Project Administrator	20.0	23.3	31.8	34.1	27.7	33.3
Tchrs. and Princs. Assigned	0.0	28.5	27.5	50.0	55.6	20.0
Sub-total Central Office	1.7%	8.6%	11.5%	10.6%	13.1%	15.4%
School Staff						
Principal	1.2%	1.8%	3.9%	6.0%	7.2%	15.1%
Assistant Principal	0.0	2.8	4.4	7.6	7.9	4.8
Other Staff	10.0	10.6	11.4	10.0	10.2	11.4
Sub-total Schools	1.6%	10.3%	10.3%	9.9%	10.2%	11.4%
Total Professional Staff	1.6%	10.3%	10.7%	9.9%	10.3%	11.4%

Notes

1. "Non-White" -- Includes Am[illegible] Spanish-Surnamed personnel.
2. "School Staff" -- As [illegible] school.
3. "Other Staff" -- Includes [illegible] counselors, librarians, etc.

February 3, 1973

Plaintiff's Exhibit 32.

CHAIRMAN RUBINO:--All in favor say Aye, contrary, No.

AYES-ECONOMOU-MRS. MILCH-RAND-MRS. STAROSCIAK-RUBINO-5
NOES-NONE
ADOPTED

- - - - - - - - - - -

DR. MANCH:--The next item concerns the subject of the Offerman Stadium as a site for a school. You will recall that at your direction, I sent a letter to the Mayor and the Common Council about two weeks ago, indicating that the Board ofEducation is willing to consider Offerman Stadium as a site for a school, but you requested certain assurances at the time. One of them was that in the first place, the Council would approve such a site for a school, and in the second case, that the Baseball Team would be housed at Civic Stadium. I think the feeling of the Board was that it did not want to deprive the City of a place for the Baseball Team to play.

That has been considered by the Legislation Committee of the Common Council and I have a communication from Mr. Cooley, City Clerk, indicating that the Committee on Legislation of the Common Council, at its meeting held December 7, 1958, considered the following item. Well, actually what this letter is about is the item referred to as a petition - Petition No. 75 - Ulrica Messiah and others oppose Offerman Stadium site for a new public school, with the sense of the Committee that the foregoing item remain tabled in committee and the subject matter referred to the Board of Education for its study and report.

Now, we have it before us. I don't know quite what action you would wish to take at this point, but you have already indicated in previous communications to the Council, the fact that the Offerman Stadium is a site thatyou would want to consider for a school, providing you have the other assurances.

CHAIRMAN RUBINO:--What's the pleasure of the Board on this communication? I know there are people here who will want to be heard on this subject, and they certainly will be heard, but before we go into that I think the Board - -

DR. MANCH:--May I say one more thing, to put everything on record before you comment. I received yesterday several copies of a statement from the Committee to eliminate Offerman Stadium as a public school site. You received copies of it this morning as that was the first time I could see you and give them to you - you each have a copy at the moment - dated December 7, 1958.

CHAIRMAN RUBINO:--Well, Dr. Manch, I think it might be well, in order to get this subject in its proper perspective, I think

Plaintiff's Exhibit 32.

it might be well to say how do the Superintendent and the staff feel in connection with this proposition as of now.

DR. MANCH:--I think our feeling is similar to what it has been with regard to this as a site. The advantages that have been pointed out to us are still recognized as advantages. I know that a group, and I think they are represented here, have indicated that there are some disadvantages and the staff has weighed all of these and considered them very carefully, and I think still feel, and Dr. Rooney may have more to say on this, as we exporessed ourselves at the Council meeting - the Legislation Committee, a few days ago, that there are advantages in terms of getting a building built so that children may be housed in a very crowded part of the city, that perhaps outweigh some of the disadvantages that have been presented. I think some of us feel that the disadvantages which have been presented by some persons, can be dealt with in one way or another. Now, I notice Councilman Maloney is here. I think she has studied this very thoroughly and might wish to comment later, but from the point of view of the staff - Dr. Rooney, is that still the opinion so far as you know, of your staff and others from the research point of view, and those who have studied it.

This gets back to the questions that were raised when we originally considered this at the meeting of July 21st. I raised several questions, as you recall, as a matter of record at that meeting, and I was of the opinion from the replies I got that this was considered a suitable site to meet the needs we have in the community, and to my knowledge that opinion has not materially changed.

CHAIRMAN RUBINO:--Well, I think before the Board gets into any discussion, I think we owe the people here who have been interested enough to come and discuss this problem that's very pertinent to themselves -- I would like to assure them, however, that the Board is very cognizant of the problem of the Masten district, and while we appreciate their attendance, which is our way of recognizing good citizenship being on display, because when people visit our board meetings, it always serves as a very heartening thing to a Board to see people come in and make known their feelings and make known their in anything that deals with matters affecting their most particular community. We would urge, however, that in the future the people would come even if there were no matters applicable to their own community. We are always glad to see people - we want them to join with us at these meetings, because we feel in that way we get a far better and more intimate knowledge of the work we are trying to do.

Plaintiff's Exhibit 32.

In that connection I think it certainly would be most appropriate for the Chair to recognize the presence of the duly authorized, delegated representatives of the Masten district, and that's our good Councilman, Cora Maloney, who has done a good job of attending most of our meetings with very, very much interest and certainly, with the kind of frequency that's all too rare in public life, and I cdrtainly want to say - I have said this many other times - it's a very refreshing sight to see people in public life as concerned about their disttict as Councilman Maloney is in the Masten matter, so, Councilman Maloney, before we get into discussion, I certainly offer to you the privilege of the floor for as long as you want.

COUNCILMAN MALONEY:--Thank you, Mr. Rubino. I would really like to hear the voices of the Masten people and then I will speak.

CHAIRMAN RUBINO:--All right, the Chair will now recognize anyone who would like to be heard on the matter as it affects the Offerman Stadium site. If you wish to be heard, I would appreciate it if you gave your name and address to our Secretary.

MR. FRANK CALDWELL, 230 Blaine Avenue, appeared before the Board.

I am Frank Caldwell, 230 Blaine Avenue, and I am the designated spokesman, I suppose, for the committee, the statement of which you have in your portfolio.

If I am to make an oral statement, it would only be to read that which you already have. I would not like to attempt to take out of context any portion of that, and either emphasize it or minimize other statements in that report. You will notice that the new material which does raise an issue which was not raised in the City Council, is approximately ten pages long, and incorporated into that statement is the statement that was made before the City Council. I will abide by the Chair's desire insofar as reading my copy of this or making myself available for questions, if the Board would prefer that that be done.

MRS. MILCH:--Mr. President, I think this was written up in the Council proceedings, so could I suggest that we incorporate it in the minutes.

DR. MANCH:--Mr. Caldwell, what is the new point mentioned, that you did not mention in the Council?

MR. CALDWELL:--It was the feeling of our committee that the issue of segregated education was not the proper issue to present before the Common Council, but rather was an educational issue

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which should be here presented, so that the new issue whichis contained is the opposition of our committee to a school being located at Offerman Stadium, on the ground that it will be a segregated school by virtue of thepattern of residential segregation in the City ofBuffalo.

CHAIRMAN RUBINO:--I haven't had time to thoroughly digest that very, very consensus report which is before us, but does your group, or you who represents this group, did you correspondingly recommend some of the things that would put it in your own terms, desegregate, if there is such a term. Frankly, that term has never had any substance at our meetings, it's never had any substance at any of our considerations, because our considerations in the nine years I have been on the Board, have always been the consideration of children. We have never got into the color or the nationality, or the religion, or anything remotely connected, except to serve the best interests of all children, and I would like to know for my own information, not having had time to thoroughly digest that brochure, do you correspondingly recommend some of the things that you might like to see incorporated in the thinking that apparently hasn't met with the approval of your group at this point?

MR. CALDWELL:--I think our answer would take two veins with reference to that. Our first suggestion is that residential segregation be regarded as creating an educational need, and that it is part and parcel of the necessary consideration of this Board, in order to meet it's responsibility in providing democratic education for all children. We do not recommend specific things to be done. We do, however, recommend a technique which was used and adopted by the Board of Education of the City of New York in facing these issues and working toward their solution. That recommendation is that a Commission be appointed, and I am frank to say that I am not familiar - I haven't looked up the law to determine the technical manner in which the appointment of that Committee or Commission will be brought about, but that the function should be that it should act in relation to the Board of Education and make recommendations to the Board of Education, particularly with reference to only the educational problems raised by residential segregation. The essence of our statement is that racial integration is an educational need of our children.

CHAIRMAN RUBINO:--Let me ask you a question, Mr. Caldwell. Would you recommend that if the establishment of this Commission were to eventuate, would you recommend that any time the Board of Education was to seek a site for a school purpose, that this same Commission pursue its course along the lines thatyou mention to be sure that all

implications such as seem to be disturbing you be looked into? Now, you must remember that the policy of this Board - the policy that this Board is following and recommending is a very usual policy and pattern that's been part of this department for the last forty-some years, and that this Board in looking at the problem of the Masten district, looks at this problem only in terms of children, and in no other way, and I am sure that some of the things that are disturbing you, and I can appreciate your interest, whether I agree with your observations or not is neither here nor there, but in any case, I would say that the interest and the apprehensiveness that apparently exist in the minds of some people have been well attended to and well defended , and well scrutinized by the Councilman of your district, whom I am sure under the legal jurisdiction that she holds would make it certainly a point to be sure that all fair and honest considerations as they would apply to the children of that district, be met, faced up to and boldly enforced, so that this Board from what I can see, frankly, I haven't had a chance to have the other members express themselves, and I am sure that they will, I think that some of the considerations that, apparently, at this point are disturbing some of the people that you represent, have never at any time been a consideration of this Board. We look at children as children. I don't think it's the function of a Board of Education - this may be a matter of philisophical disagreement -- I don't think it's the function of the Board of Education first, to delegate its responsibility under which they are functionning - -

MR. CALDWELL:--Mr. Chairman, excuse me - if this a question? I am lost now if it is.

CHAIRMAN RUBINO:--No, I don't think it's a question. This might be called just a little bit of outward soliloquizing, if I might say that - I am committing you to look into the perspicacity that I hope I am guilty of. I would like you to know how the Board ofEducation functions behind it's conference doors when they are considering problems as they apply to all children of all the people of the entire City of Buffalo, and, frankly, some of the apprehensiveness that exists at this point by your group, has never been a consideration of this Board.

MR. CALDWELL:--That is the basis of our complaint.

CHAIRMAN RUBINO:--And we would resent bitterly - and I know I speak for the Board - we would resent bitterly the implication that any move or any recommendation or any thinking on the part of this Board was ever intended to set up segregation, or to do anything that would be unAmerican.

MR. CALDWELL:--We expressly agree with you in our statement as it is written there - that there was no discriminatory attempt on the part of the Board, and we go a step further and express our

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appreciation for particular democratic practices by Dr. Manch, but we do staunchly urge that this Board, in light of your statement here, commence right now to accept the fact that residential segregation creates an educational problem, which must be faced by this Board.

CHAIRMAN RUBINO:--Anybody else like to be heard? I assume you are speaking for the entire group, Mr. Caldwell?

MR. CALDWELL:--I was designated as such, Yes, sir.

MRS. STAROSCIAK.--Well, if they agree that they charge no one with a discriminatory intent, what intent are we driving at?

MR. RAND:--What about reading that communication from the Masten district?

DR. MANCH:--Yes, I have a telegram which I received yesterday, which reads as follows:

"Dr. Joseph Manch
Superintendent of Schools

We, the Board of Directors of the Masten District Community Relations Council, in meeting assembled December 8th, being aware of certain objections which do exist, nevertheless recognize the necessity of a new modern junior high school in this community, and do recommend the immediate acceptance without further delay, of the Offerman Stadium site for this school.

(Signed) LLOYD HOWSER, Chairman"

I assume that this is one of the Councils which has been organized under the aegis of the Board of Community Relations.

CHAIRMAN RUBINO:--Councilman Maloney, would you want to be heard on this?

COUNCILMAN MALONEY:--Well, yes, I want to say that I have really spent a lot of restless nights trying to make a decision and trying to please everybody. Now, I feel that the children of the Masten District's comfort, where I am concerned, that so far as my political future, I am the minimum- I feel it's the smallest thing in this equation. I would not at any time want segregation, but the policy of the Board of Education has not made this -- it has been the Real Estate that have made the pattern and are holding very close to it. They sell houses on a particular basis, so we have been caught in this particular thing. I wish that it could be at a different place, but if

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it can not be at a different place than the Offerman Stadium, and the children must have education, and the children are the innocent victims because the adults have situated and located there, then I rise or fall by the children of the Masten District.

CHAIRMAN RUBINO:--Yes, Sir - -

I am LLOYD HALL, not a representative of the group but my constituents feel - -

CHAIRMAN RUBINO:--Your address, please?

MR. HALL:--167 Hamlin Road. Now, it seems to me that the Board and everyone else consider the children as the utmost thing - it's the citizens that I hold more of a brief - but I think most of you who are educators realize that the education of of citizens doesn't necessarily end with building an edifice, if the children are not provided with the proper atmosphere in which they spend mostof their time, which is in the school. I still fail to see where they would gain the maximum benefit from the education.

I would like to go on record as saying that I feel as if that site is not desirable. Now, I realize that it is questionable whether you can ever obtain an ideal site, but to me I believe that is not the most desirable site and far from being the ideal site. The practice which has been pointed out in the brochure which you have there certainly does exist. Now, if we want to expose our children to that type of thing, you are not going to get good citizens - don't look for it. Increasing welfare rolls, increasing taxes, and things like that, you just can't say you are going to get good citizens, even under the best conditions you can't get 100% - when you expose them to other things like that you can't expect to get good citizens.

MRS. MILCH:--They have exposure to a church right next door, Sir. What better exposure could there be?

CHAIRMAN RUBINO:--I think we agree on one thing - that a school must be built in the Masten District - there is no misunderstanding about that - -

MR. HALL:--Most definitely - most definitely.

CHAIRMAN RUBINO:--We also agree that we need two schools in the Masten District. (Yes) We also seem to agree that the children are bulging at the seams; that there is a need of such urgency at this point to house these children who deserve the best possible educational opportunities - -do you agree with me?

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MR. HALL:--I agree with you, but the fact that you build a school isn't going to produce the effect - -

CHAIRMAN RUBINO:--I would say it's a good beginning.

MR. HALL:--It's a good beginning, I agree with you, but has this Board looked at some other area for sites in the Masten district, and give us a school which we can be proud of. We certainly can't be proud of the things which surround that site. The Architect would have to design his building to keep the classrooms away from the noise and traffic. How would you tie an Architect's hands like this, when he has to agree to these things?

MRS. MILCH:--We could build it out in the suburbs, but the children aren't there, our children.

MR. HALL:--I am saying there must be a place. I feel that this Board can do it - I believe they will do it - provide another site within the Masten District, besides the Offerman Stadium site.

CHAIRMAN RUBINO:--Well, there was an alternative site, as Mrs. Maloney knows, that took in the Purdy, Alexander area there - it took in about four square blocks, which would have displaced between 175 and 200 families - homes I should say, which would number between 300 and 600 families. It would take $900,000.00 off of the tax rolls assessmentwise; it would have taken at least five years to dislocate and relocate people. It certainly would have created a very human problem; it would have created an economic problem, to say the least, and it was going to cost in the neighborhood of $2 million dollars to help bring about this situation.

Now, the Offerman Stadium site, conversely, brought about the advantages that there would be no displacement of people. No. 1 - the site in its entirety, with the acquisition of 27 homes in the immediate vicinity, was going to cost in round figures, around $700,000.00, as compared to $2 million. Our staff, in which we have very, very explicit confidence, made a very thorough study and we have been in a continuing state of study. We would like to emphasize that as strongly as we can. I hope that no one in this room gets the impression that the recommendations that are before us this morning were born of last week's thinking - this Board has been in a continuing, thorough study of the problem - not only of the Masten District, - we have a problem equally as acute in South Buffalo; we have a problem equally as acute in North Buffalo, where the kids are actually in effect crying for housing. We have many situations equally as acute as the Masten District. This is just one of a total number of

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problems that are facing this Board. Frankly, our original thought was that Civic Stadium would make an ideal site for a school. Mrs. Maloney agreed to that; most of the citizens agreed to that, and this Board certainly isnt vain enough to think that any proposal it comes up with is going to meet with complete unanimity . We would never be that vain to feel that that could ever come about, but you must appreciate, and I am sure you do, and recognize that this Board can only proceed upon the recommendations and suggestions that are given to us by people of competence, people who are members of our staff, people who are constantly looking into the problems that are facing the Board - not today, but the problems that are going to be facing the Board 5, 10, 15 or 20 years from today, and we must build schools where there are children. There is no other way you can approach it.

MR. ECONOMOU:--Mr. Rubino, may I also add, that the time element, which you didn't bring out, is very important. It will take six years against two years to build a school - -

MR. HALL:--Well, I agree with you wholeheartedly, we have got to house children - Yes - but you must agree that housing children doesn't necessarily give them an education. We have had children in schools for years - -

CHAIRMAN RUBINO:--I don't think we are arguing that point.

MR. HALL:--Well, that is what I'm saying - that I don't believe - you must agree that the atmosphere surrounding here is not conducive to the best interests of the children of the City of Buffalo. We must progress, look into the future of these things - we just can't go back, and to me I think you are going back.

MR. RAND:--Mr. Rubino, I would like to make a statement -

CHAIRMAN RUBINO:--Thank you, Mr. Hall.

MR. RAND:--If I may try to sum up the way I feel about this, from the viewpoint, first, of the nature of the neighborhood Now, we build a school - we build a school for 50 or 75 years - how long, Dr. Rooney?

DR. ROONEY:--Sixty to 75 years.

MR. RAND:--Now, 50 or 75 years from now, it might be wholly integrated, it may be wholly segregated - maybe by that time we won't be concerned whether it's integrated - I hope we won't be - I hope there won't be any concern 50 or 75 years from now, but we build a school for children over a 65-year period, and I think that that's something we have

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got to look at, too, and we don't know what the nature of the neighborhood will be in 50 or 65 years from now. Even considering, on the map there, I think you will see in that pink area, Dr. Manch - in driving through the area - I drove around there quite a bit last week -- Now, that particular site is nearer to the center of that area, which I think is made up of not just one race or one group - it's quite an all embracing area, particularly the area stretching on the other side of Main Street, so that is another matter.

Now, the second factor being considered, besides a matter of integration or segregation, is the matter of the character of the neighborhood, as far as saloons and undesirable facilities in the location are concerned. Now, I think one - and that is spelled out, Mr. Caldwell, very well in the brief you filed here - one reason possibly for so many facilities of that sort is the Offerman Stadium itself-the fact that there have been large crowds assembling in Offerman Stadium to attend Sports facilities. That, of course, would be eliminated, so that the basic, economic market, if you will, for a lot of these institutions that you refer to, would be eliminated.

But, also, let us consider the church in the neighborhood there, and I think in a broader sense, too often in judging an area, we are inclined to look at what it has been in the past and what it is now, and not to consider what it will become by virtue of our efforts. Now, I know in many areas, putting a school and recreational facility in a particular area of a scope which this would be, make a very significant contribution to the neighborhood as a whole - to the entire neighborhood - and I certainly think that in this case with a school in conjunction with the church right there, that we could make a very significant contribution to the neighborhood itself, as well as figuring the economic factors, etc.

Then, of course, we have to consider the financial aspect, which has been covered already, and finally, I feel that our staff has taken all these factors into consideration. They have studied it carefully - they have studied it from every aspect, which they possibly could have, and weighing all the factors involved, they have come up with the recommendation for putting the school in this location, and after weighing them all and realizing that there may be some objection; whenever positive action is taken there always are pros and cons, but it seems to me that the pros in this case so far outweigh the cons, in practically all respects, I feel that we will make a significant contribution to the neighborhood in its entirety.

Therefore, Mr. Chairman, I would like to offer the resolution in whatever phraseology is deemed advisable to petition the Common Council to proceed to give us approval of this particular site

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for the school.

SECONDED-MRS. MILCH

CHAIRMAN RUBINO:--Question - any discussion on the question? Mr. Economou - -

MR. ECONOMOU:--I have to go along with the expression of Mr. Rand and the rest of the members, as well as the staff as a whole. They have contributed a lot of time and a lot of effort in analyzing the situation, and this literature that has been presented to us by Mr. Caldwell and his committee is certainly conclusive. We would like to state that we charge no one with discriminatory intent, so I feel that what has been expressed here is the right procedure, inasmuch as the Councilman of that particular district goes on record in favor of what has been suggested by the staff.

CHAIRMAN RUBINO:--Well, before we take a vote on re-petitioning the Council to secure the Offerman Stadium site, Dr. Manch, I am sure you would want to be heard on the subject, because you are our educational advisor and administrative advisor and it's upon your advice that the Board functions, so I think the record should clearly state your position in this matter.

DR. MANCH:--Thank you, Mr. Rubino. I have stated my point of view a number of times and most recently before the Legislative Committee of the Common Council. I think that we should make very clear two or three things - -

First, let me say that I appreciate the concern of these people who have come here today and have spoken on this subject, and those who have come with them and have not spoken and who feel equally responsible with regard to the kind of recommendation that's been made. I think it is good when, in our city, we can come together and express our point of view and make our reasons known for feeling a particular way about a particular subject, and then follow the democratic process of voting in open meeting, as you will do to make a decision. I think this is democracy.

I want to express appreciation to the committee for the kind comments made about me in the statement. Mr. Rubino has indicated the Board of Education in its deliberation, and he has expressed it as a policy over many years, concerns the children as children and we have not distinguished in any way - and I say this in the very best sense, and on the basis of race, creed, color or national ancestry. As a matter of fact, and I am saying this so that Mr. Rubino's point will be distinctly understood - Mr. Caldwell, I want to make this clear so that you and I understand each other.

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A few years ago the Board of Education made part of it's policy a policy of Community Relations presented to it by our Community Relations Committee. This is a policy of which we are proud in this city. I might say to you that I attended a meeting of School Superintendents about a year ago in which this question came up about the policy in regard to human relations - how do you deal with racial matters, etc.? I said, "We have a policy" and I had a copy of it with me - we knew what the agenda was going to be - and I read part of it, and there was so much interest in it as a good, forward looking policy, that I was asked to send copies of it to every Superintendent there and there were about 50 of them from the largest cities in the country. We have been recognized as being very broad in our thinking on this subject. We are concerned with the sociological factor operating in our community. We are concerned in a real way -- as a matter of fact, when we considered the problem of redistricting Bennett High School, we were very much concerned about that and I would like to point out that a group in this city - I don't know whether the Board members know this - The Civil Liberties organization - I don't know the exact title - in a publication a short time ago, commended the Board for it's thinking on that matter, and indicated that as a result of that redistricting, the inter-racial aspect of our high schools is better than it was before.

Now, let me assure you that, personally, I have no desire to create what any of us would term a segregated school. We have some schools in our city that consist largely of negro students; we have some that consist largely of white students, by virtue of where people live. Now, in placing schools it is important to consider sociological trends - basically, we have to put schools where children are, where they can reach them. This is a problem we are always faced with. I can reaall some very bitter discussions a few years ago in discussion of a plans certain junior high school, where people came up and pointed out that the schools were too far from where the children lived. This is a problem that the Board has to be concerned with, that nobody has mentioned today, so, basically, ladies and gentlemen, we have to put schools in a place where they will be acceptable to the children who live generally in that area.

Now, much has been said about the fact that this may create a segregated situation. I would like to point out that this particular school is only part of a city-wide plan of junior high schools - it's a master plan, which was approved by the Board of Education some time ago. I don't know whether you people have had an opportunity to consider it in that concept - a total city plan - and, basically, the plan which was approved some time ago covered a particular area outlined here - this pink area - and this was done on the basis of where our children- where do we have to have schools centrally located so the children can reach them.

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and when the Board entertained some time ago, the suggestion that the Offerman site be considered as a school, I don't think the Board, at that time, had in mind changing the district to be served. In other words, the school serves the same group of children - -

MRS. MILCH:--You might point out the feeder schools -

DR. MANCH:--Yes. Well, the feeder schools are all in this area; they are #17, 8, 53, 93 and 74 - that's the area. Now, it is not unlikely - let me say it in that way, it is not unlikely that by placing the school in the Offerman site, rather than the original site proposed, we may have a more integrated situation than would have been possible with the other arrangement, simply because the school is now suggested in a place a little bit further west - practically at Main Street, you might say.

Now, I note that in your brief you say this:

"It is noticeable that in reference to segregated education, the remarks have been general and have not been keyed, particularly, to Buffalo."

And this is what I said the other day - in reading the petition originally, I had a feeling that this was not written for Buffalo, and I will tell you why in another minute, for another reason. On that same page you make this comment - -

"It's a rare and dedicated person who chooses to spend life aiding the underprivileged. Teachers don't too often choose to teach in the difficult school. This is true of teachers regardless of their race * *

and then you go on to say -

"I certainly would rather teach a group of truly "middle class" youngsters, regardless of the color of their skin, than to teach in what we know as a "ghetto school."

Now, one of the things that hurt me in a sense, deeply, when I read that original petition, which as I have pointed out was written without any consultation of any of us in the school system. I pointed out and I must say it for the record here, that to my knowledge, nobody came to see us and discuss that with us before the petition was written. The point that I am making is - there is an implication in that and I know you didn't intend that to apply to Buffalo, but most people think you did because you wrote it in terms of the situation here. There is an implication that our teachers - many of our teachers in the schools in the areas with which we are concerned, are not as good as teachers in

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other areas. I want to say to you - this is in direct reference to the commnet you make here - that we have some truly fine, dedicated teachers in this area and I hope that they were not personally hurt by the implications in your statement. They are teachers who want to teach there - they are both negro and white; they don't want to be moved anywhere else, they have never asked for it. I think Dr. Leighbody will tell you that we have a smaller turnover in some of those schools, in terms of requests, than we get from any other schools in the city - is that correct, Dr. Leighbody?

DR. LEIGHBODY:--Yes, it is right.

DR. MANCH:-- And we appreciate the fact that these teachers do do a good job in contrast to what I understand has happened in some cities, where you practically have to direct teachers to go to certain schools, and then offer them certain inducements. We don't want that kind of situation in Buffalo. Our teachers are assigned to schools on the basis of openings and we don't have the kind of feeling that this implies - and I don't ever want to have such a feeling in our city as long as I am holding this office.

I have to say to you that from all of the evidence presented to me in terms of the advantages, and all of the arguments I have read with regard to the disadvantages, I recognize that this is probably not an ideal site, and I don't know where there is an ideal site in that area, if there is such a thing, but I would have to say in terms of what we can do serving children, in terms of what the City has to face in its responsibility in terms of taxation, etc., and all of the other facts that have been presented, and from the point of view that, personally, and I speak for the staff, too - we have no intention of being part of any movement to create a so-called segregated school, and that we would be conscious of this and do everything possible to make it a school which would be as integrated as the schools in that particular area can be. We have to deal with facts - facts of housing and the facts of geography. With these things in view, and again here is a time and place where I would ask for an exchange of faith - I think you need to have faith in the Board of Education and it's feelings about democracy and about people as people, and with all the facts that have been presented, I don't see where we have any alternative at the moment, if we ever want to get a school for the children, and I am thinking of the time element, and I am aware of the facts that have been presented to me with regard to enrollment - I don't think you have

any alternative at the moment but to consider this site in all seriousness, as a solution for providing education for these children - education of a very high character in a very fine new building where it has been recommended.

I don't know of any other site that would be available to us that would be better, that would solve the problems that you have presented in any better way -- thinking, too, and a little bit sociologically, Mr. Caldwell, about the movement of people and what the situation may be, and Mr. Rand talks about 50 or 60 years - let's talk about five years. There's a fact that I think you and I must face, so from all of these points of view, I think the Board is acting wisely as far as I, in terms of human judgment, can tell, in making such a decision.

MRS. ULRICA MESSIAH, 463 Humboldt Parkway, Buffalo, N. Y., appeared before the Board -

Speaking of sociological factors and in making comment on what Mr. Rand and Dr. Manch have had to say, I think it's rather sad that this Board, perhaps, isn't looking far enough in the future, because if you compare New York City and Chicago, we have organized to try to prevent the same situation that has existed in the other cities. But that's neither here nor there, since it seems that the mind has been made up already. We met with Dr. Rooney - you say that we haven't met with any person of the group - we did meet with Dr. Rooney, I think the first week in October, and I would like to read his reply to us. The communication is dated October 23d.

"Dear Mrs. Messiah:

"Thank you very much for your very interesting letter of October 21st. I am referring your letter to Dr. Manch, Superintendent of Schools, for his consideration and discussion with members of the Board. At the earliest possible date I will make a study of the four suggested school sites as listed in your communication."

Well, since that time I have sort of received a word of mouth report as to what had been done about the situation, but I want to go on record knowing that we had tried to make some communication with the Board.

And, also, on November 17th, we had prepared a resolution. We had to prepare it in a hurry because there seemed to be a steam roller process going so fast that we tried to get as many people interested as possible, so that we might be heard, our feelings might be known, so when it came to this point, someone wouldn't say "Well, where were

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you people, what happened to you?" There is no body that informs us in our community - -

"Dear Dr. Manch:

It comes to our attention that consideration of sites for school buildings is before your Board. Members of our committee have some rather strong opinions concerning certain sites publicized in the daily papers. Enclosed is a copy of a resolution we are respectfully submitting to the Common Council. The obvious purpose of this resolution is to obtain a public hearing before a legislative body. We would also welcome an opportunity to present our opinion to the Board of Education at a proper time, and in a proper place.

Please advise us if such would be allowed. We thank you very much for whatever consideration you may give this matter."

And I am sure that if we had had some assurances, or some indication from the Board of Education concerning our resolution, that you would have been glad to change it, but we heard nothing - until it was too late.

DR. MANCH:--Well, you heard orally, and as a matter of fact, the original document that you are referring to was discussed with the Board - that was a very brief document - and with regard to this resolution before the Council, you must remember that you had already done it, see what I mean - was it you I talked with the other day when I indicated the date of the Board meeting and indicated that you might come here - it's a public meeting - and present the point of view, which could be done at any meeting of the Board - but what I am getting at is, and I don't think we need to debate this point - there wasn't enough communication, in terms of getting this reviewed before you actually wrote - you have a right to do it - you can write a petition any time you wish - and present it - but you had written this and presented it to the Council, and then wrote and asked for consideration, and we discussed your petition very carefully, and here we are now discussing it, and the Board nasn't yet voted - so you see you are having every opportunity. In terms ofyour implication that the Board has already decided what it is going to do, I don't think that's a fair statement to make; the Board has not yet voted, and the Board has sat here and listened to you and listened to anyone else, I am sure, who has a point to make on this, before making a decision.

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MR. F. CECIL BROWN, Supervisor of the 12th Ward, appeared before the Board:

I represent the ward in which this school is proposed for. I feel - I have been sitting here and I feel that I should stand up and support the Councilwoman of the district, because I, too, believe that we need the school in the district. I believe this because I have been active in P.T.A. for years, Past President of the P.T.A. at School 8, three terms, and I am Vice-Chairman now.

I think that we need a school because our schools are over-crowded. We know we are going to run into double sessions and I am concerned about these children. I want to know what are we going to do about them? I don't particularly like this site, but I know that you must havea school in the district. I hope that something can be done about the boundary lines, because I look back at School 17, for instance. Here's a school that was one of the first schools in the area to become a predominant negro school. Now, that needn't have happened, because on the west side of Main Street, the children were allowed to go to other schools. This happened years ago, long before Dr. Manch ever became Superintendent of Schools. This proposal for this school at the Offerman Stadium site is nearer Main Street. To me there is no reason why the children from the west side of Main Street could not be tied into this school just as you are drawing children from way over near - - Humboldt Parkway.

MR. RAND:--They are. That we made very clear.

MR. BROWN:--I agree with Cora Maloney on the fact that we are victims of circumstances, as far as housing goes. Both white and negro real estate agents have created this situation. They are hungry for that dollar and they have done it, and we are the victims. Now, what are we going to do about it - we can't do anything but build a school so that our children can receive a decent education. All our schools in the district, you might say, are segregated schools, because who's there? Negro people. This is the situation, so we must face it, and I've got to see my child given a chance for an education. I think it behooves the people in the community to rise up, just as they have risen up here, and see to it that in the community the taverns we talked about - that's our problem - then let us do something about it - let us organize ourselves to the point that we curb the action of these taverns. I think it can be done - in fact, we have been doing it through the Community InterestClub, the Board of Community Relations Club here in the Masten District - these things have been done in the past and they can be done in the future.

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DR. MANCH:--And let's include the schools, and I would be very happy to serve on a committee to do that job, as I indicated at the Council meeting.

MR. BROWN:--I think that as far as teaching is concerned, it's up to us in the community, if we have any gripe, to come here and tell you about it; if we think we are not getting the best of teachers in the school we should come here and tell you, and let you know how we feel about these things. I think the people that are here today should participate within the P.T.A's, or whatever organizations you have in these schools, to see to it that we have the same type of schools that they have in other districts.

I just couldn't sit here and not support Cora Maloney as she stood there alone - I had to get up and let you know how I feel. That's my sentiments. Thank you very much.

CHAIRMAN RUBINO:--That's a very wonderful summary, Mr. Supervisor. I think, just to close it in a few short sentences, that you are in favor of the Offerman site for the building of a school.

MR. BROWN:--Yes.

- - - -

MR. DELMAR MITCHELL, Supervisor of the 13th Ward, appeared before the Board:

Just for the record, if it was up to me along, I wouldn't select the Offerman site. I prefer the Civic Stadium property at Jefferson and Best Streets. However, I know that the children in this area need more schooling and more schools, and to keep from depriving them of their educational rights, I would select Offerman Stadium. I believe that a bird in the hand is better than two in the bush. That's all I have to say.

MRS. MILCH:--Dr. Manch, I think we ought to point out to the Supervisor and to the people here that this is only one of the two schoolswhich we must have in the area. There is going to be another junior high school there.

DR. MANCH:--We have attempted to point this out in many ways. There is some confusion about the Offerman and Civic Stadiums sites; they serve different areas of the city. The Civic Stadium is the southern part of that district and Offerman is the northern part. A school to take care of the children in the area we have been talking about is the North Masten District; the Civic Stadium is in the South Masten District, this area here - they are two distinct areas to be served and there has been

some confusion in the minds of people about this - some have said, Well, let's put the school in Civic -- now, that's a different area - we need a school in that area for these other schools, #48, 15, 47, 41, 39, etc., but we are talking now about the Northern area which is the place where we really are crowded. I presented some figures in the Council meeting the other day to indicate how crowded we were. I presented the same figures to the Board of Education a few weeks ago, and our predictions could really give us pause in terms of where those children are going to attend school and we have got to start building.

MR. BROWN:--Where is the boundary line west of Main Street?

DR. MANCH:--I am looking at the map drawn - -

CHAIRMAN RUBINO:--What school are you talking about?

MR. BROWN:--I am talking about the new school at the Offerman Stadium site. Where does the boundary line go west?

DR. MANCH:--It goes over here on Ferry to Delaware, goes up Delaware Avenue around the park - it includes all of #17 area, comes around down to Humboldt Parkway. You are welcome to come up and study these maps, any time.

MR. MITCHELL:--I might ask - is the Civic Stadium being considered for the second site?

DR. MANCH:--That was the original proposal presented to the Board and we assume it still is. Whether it will be by the Council, we don't know, but originally, in this meeting I referred to on July 21st, when the Board made a decision with regard to considering these sites, there was a discussion of the Offerman site and the Civic Stadium site as schools. Both sites were considered at that time.

MR. RANDL--Your order of precedence was, I think, Dr. Manch, that the one in the Northern part, which is the Offerman Stadium site, is considered as much more urgent, because of overcrowded conditions, so that was given precedence as far as time was concerned.

MR. BROWN:--Pardon me, Mr. Rand - would that take in #16 school - that's on Delaware?

MRS. MILCH:--I don't think we can talk about boundaries. We may find we have to change them.

DR. MANCH:--It doesn't on the master plan, but I think that's because of where the school was originally planned, and I think we have to re-evaluate that. The boundaries - these are all tentative - the boundaries will be settled - -

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I'll tell you why boundaries are tentative - there's a terrific change from year to year in terms of where children live, and where we have 50 children in one block area one year, we may have 100 the next year. We constantly have to re-evaluate that. Where the actual boundaries of that school will be when it is built - which would be, if we started tomorrow, how soon would that building be ready, Dr. Rooney - two years, three years - this is a question I am always asking. We have to look at it and see whom we need to serve.

CHAIRMAN RUBINO:--I would like to make one point - I am glad that Supervisor Brown pointed it out. I think he was very realistic and very honest in not blaming the Board ofEducation for some of the conditions that exist in that particular community, which have no effect on the Board of Education thinking. Some of the things that people find are wrong and not tolerable insofar as childrens' lives are concerned - that is the problem for the people of that community to rise up to and attack, and solve. For that, I say that is good, honest, rationalized thinking.

However, I would like to say this, Dr. Manch - I think this is very, very important. This Board of Education, whether I am on it or whether I am not on it, and whether Dr. Manch is superintendent or whether he isn't - this Board of Education is in charge of education as it applies to the people of the city of Buffalo -- I am sure this comes as no revelation to any of us. All that can be expected of us and all that should be expected of us is that we, in our continuous deliberations, which in the course of those deliberations which go into weeks and months, and in some cases, years of continuous thinking, obviously brings about some formulated thinking on the part of the board members. I certainly would be less than honest if I didn't admit to many of you people that in most cases my mind is pretty generally made up long before I hear the cries and the outbursts of any group of any community, and I think that's as it ought to be. I certainly would never surrender my ring-side seat with education in Buffalo, in which I participate quite actively, and have taken a deep and intense interest - I certainly wouldn't substitute that knowledge, that information, that interest that I have accumulated over a period of nine years, I would never substitute that for any person who might want to come in here and call attention to things that they thought wrong with the community, that in most cases was brought to our attention long before the community was alerted. Please believe me, this comes as no revelation to us, of some of the things that disturbed you people. Many of the things that have been called to the attention of this Board officially were called to our attention unofficially hundreds of times by the members of our

Plaintiff's Exhibit 32.

staff, as it concerns the possible selection of sites or as it applies to any educational policy that this Board went about trying to get the problem solved, or in approaching the problem, so I would like you to know that this Board at all times has been constantly aware of the needs of the children. As the Supervisor said, there are many schools, through no fault of anybody, but through the very complexion of a community, are basically made up of children of Italian extraction; that's no fault of the people that that community happens to be made up principally of people of Italian extraction - that's as it is. In any case, children are there; they must be served, the schools must be built. We have other parts of the city where the enrollment is principally people of Irish extraction; that's no fault of the community, that's no fault of the school, the children are there - the schools must be built, and so it goes. We have the people of the 6th, 7th, 9th and 10th wards, whose extraction is made up principally of Polish people. Now, I certainly wouldn't think, or wouldn't accept the indictment, or I wouldn't accept being inpugned with the idea that if we built a school in the 6th, 7th, 9th or 10th wards, that we were building a school for Polish children, or if we built an addition to Grover, which is taking place today, that it is being built for Italian children, or because we need two schools in South Buffalo, we are building those schools for Irish children. We are building the schools for the children. Wherever the children find themselves, whatever ethnic group they represent or whatever nationality they happen to be, is not a concern of the Board ofEducation. We are concerned with the educational nourishment of the children of all the people of the entire City of Buffalo.

I am not mad, please believe me. I look mad, that's my face - I was born with it and you have to accept it, but I will say this - this Board at no time I am sure the Superintendent, whose work and whose reputation in the field of public relations is unparalleled; I am sure that the members of this Board and the members of our staff would never consider any problems other than the normal problems that face a board of education, and we have been in constant communication with your Councilman, we have been in constant communication with the people who make up that community, who would be the principals, the attendance supervisors and the people to whom we are immediately responsible and depend upon for their judgment and for their opinions, based on their own information and based on their own educational ability to keep this board well informed, and I would like to conclude by saying - all we can do is the best that we can, and in petitioning the Council we have noauthority - all we can do is after a

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considered, exhaustive study on the part of our staff in collaboration with our board, we dome up with the best possible findings that make up our decisions, and then we petition the Council to go along with the recommendations that this Board has made, and if you people are not satisfiedwith the site that's been selected, then your next democratic step - and I am sure you are certainly aware of it - would be to ask the Council to deny the request of the Board of Education for use of that site for school purposes, but I would like to assure you that this Board at all times has the interest of all the children of all the people as their first and only consideration in all the deliberations that we have ever had. I would like that for the record, and I am sure you have a good representative in Councilman Maloney, who will be sitting in the Council Chamber when that petition is brought before that honorable body, and if any of these things that are disturbing you people are still disturbing you, that would be her duty and obligation as your representative to debate the question as she sees fit as it pertains to you people.

MR. CALDWELL:--Mr. Chairman, could I be heard once more - -

CHAIRMAN RUBINO:--Surely - -

MR. CALDWELL:-- and I will not involve this Board with me again. Only one point - I have got to start with June of 1954, during which month the United States Supreme Court was faced with the task of determining whether or not racially segregated education was equal to integrated education, and on the facts that were then before that court the segregation was brought about by virtue of legal compulsion, and on those facts the Court went far afield to establish as a matter of law, which, of course, is different from educational consideration, I suppose, that those two classes of education were different and that segregated education was inferior to integrated education.

Now, if you choose to argue that point, I would only refer to the authority of the United States Supreme Court and the experts on which they acted, and I would not debate that point. I accept that as rather final.

Now, from the standpoint of our children who are living in the North Masten district, it makes no difference to those children and their learning, whether the segregation was caused by law, written on the books in the form of formal law, or by customs of people, or by real estate brokers - or, frankly, we don't care how it was caused, but the education which we get in the feeder schools which will feed this proposed school, is segregated education and, Honorable Members of this Board, it is inferior education.

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And that which we allege in our complaint with reference to teachers can be proven, if this Board will accept the fact that residential segregation , however caused, raises an educational problem right here in the City of Buffalo. Any sociologist, any psychologist, any person who would qualify as an expert in the matter of public school administration will attest to the fact that in a difficult school or tough school, as they have come to be known, it is more difficult to get people to go into those schools to teach, and in our own position as laymen, we took it upon ourselves to make a test, because it developed that one in our midst attends Buffalo State Teachers College, and we said, "Now, before we go into this, you go to your class and find out how many people in your class desire to teach in School 37" - and the result, Sirs, was none.

Any person in American, in what endeavor he goes into, strives to go into that which produces the most and the best, and that's true of our teachers. They want to go into an edumational plant where the product that they produce will, Sir, be the best. I am talking about averages - I am talking about people, and I am not talking about graphs and charts.

MRS. MILCH:--Sir, did I understand you to say that you felt that the feeder schools in thatarea were inferior to the other schools - -

MR. CALDWELL:--I said that they were segregated schools and as such, the education obtainable is inferior.

MRS. STAROSCIAK:--I don't think any of the board members would agree with you, especially when we do not have any inferior schools in the City of Buffalo.

CHAIRMAN RUBINO:--I think the Superintendent should take the greatest exception to that, because he's in charge - -

DR. MANCH:--I was just waiting for you people to finish I absolutely refuse to accept such a statement, Mr. Caldwell. I don't think you are talking about Buffalo. With regard to the Supreme Court ruling, I was as happy as anybody else that that ruling was made and, primarily, I think we would have to recognize it in terms of facts of the situation. They were concerned with schools in the South, Mr. Caldwell; they were not concerned with schools in Buffalo, primarily. So far as I am concerned, as long as I hold this office, I will not permit in any way that I can prevent it, any lessening of quality of teaching staff or achievement in any one school. We just don't operate that way.

For reasons beyond our control - perhaps, Mr. Caldwell, as a result of inmigration, a very much overworked term, , depending on where they come and live, we

Plaintiff's Exhibit 32.

may have some children who are not as well prepared as others, but I think we overcome that rather quickly in our community, and we are truly grateful that we do have teachers, despite your example at State Teachers College - may I point out to you that we have been told that in some years none of them want to come to Buffalo at all - maybe that's an exaggeration, but we are working on that, too, and I want to point out to you that we had 561 people that took the examination for Buffalo this year, and many of them were from State Teachers College. I think we are moving ahead.

I can't accept your statement, Mr. Caldwell - I don't think you are talking about Buffalo.

CHAIRMAN RUBINO:--Dr. Manch, I think this Board would be entitled, in the light of the observation that was made - I think this Board as the legal custodian for education in Buffalo would have a right to positively get a first-hand report from you publicly, if this observation that's been made that there is an inferior type of education being offered to the children of that particular community -- this Board would mandate you to apprise us of a situation of that type, if such a situation exists.

DR. MANCH:--Mr. Rubino, the moment I saw that peition, I immediately went into that question. I talked with Dr. Leighbody - I even looked into it in regard to one school, which somebody had made a charge, just before I spoke at a meeting on Elmwood and Utica, and Jefferson, the library - and I found there to be no truth in that assertion - is that correct, Dr. Leighbody?

DR. LEIGHBODY:--That is correct, Dr. Manch. In fact, in one school we took the names of the teachers now serving there and we interviewed veteran members on our staff, who knew them personally and individually, who had gone through teacher training with them, and who had taught with them and, one by one, with one exception - a substitute teacher who had been there a very short time, who was a little bit weak and who was being replaced for that reason - with that one exception - every member on that staff was recommended most highly and each of the veteran folks with whom I talked, said, "I would be delighted to have that teacher teach my child or to be on my staff". We went down that list one by one.

MRS. MILCH:--May I also say, Dr. Manch, that I spoke with a language specialist last week, who said that of all the classes she served in the city, she can't wait to get to School 53 and School 37, because there the the students are the brightest and the most anxious for the kind of teaching that was given to them.

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DR. MANCH:--Dr. Leighkbody, may I ask you a very direct question - have you had any requests for transfers from School 37 in the last year?

DR. LEIGHBODY:--Not for two years, Dr. Manch, have we had a request. In assigning teachers to schools, this is done as systematically as possible - and the new teachers who come in - I cannot recall, and I am sure I am quite right sbout this - any teacher requesting not to be sent to any particular school, to which they were sent. I can not recall.

DR. MANCH:--Thank you. Let's go back to what I said earlier today, and this will be my final word, Mr. Rubino, and I am going to say this as emphatically as I am physically and mentally able to do it. I, right at the outset when I saw the petition, resented for every teacher in the Buffalo schools, and for every child in the Buffalo schools, certain implications which are not true of Buffalo, and I will continue to resent that kind of implication. I think, perhaps, some people are lending themselves, unwittingly, to some kind of effort to shake confidence in some of our Buffalo schools, and I resent it - and I resent it for every teacher and every child in Buffalo.

CHAIRMAN RUBINO:--Well, that's what makes us proud to have you as our Superintendent of Schools, and I want to say that our Board has reaffirmed - which hasn't been necessary - but we are reaffirming this morning our complete confidence and faith in you, firstas a great Superintendent, and equally first, as a great humanitarian. There has never been any question in hhe minds of, certainly, this Board and not in the minds of anybody who ever met you or knows you, that your motivations were anything less than altruistic and for the best interests of everybody. We have always been aware of that, Dr. Manch, and we still are aware of it, and we are proud of you - and I am glad we had this little session - I think it's been good - I think confession is good for the soul, as has been said, and I don't think at any timeour Superintendent or staff need to be put through a wringer, unless it's absolutely necessary, and I think this Board would be the first one to ask for the resignation, not only of Dr. Manch, but all the members of the staff and all the members of our teaching profession, if anything less than Dr. Manch has outlined, existediin our public schools. That's one of the reasons I, and hundreds of people like me, have been proud to serve on this Board, because it's truly been a board made up of highly dedicated people, whose only interest has been the welfare of our children. On the resolution - -

MR. ECONOMOU:--Mr. Rubino, before roll call - before we vote on the resolution, Councilman Maloney withheld statements or remarks - may we hear them at this time?

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MRS. MILCH:--She said she did favor the Offerman site -

CHAIRMAN RUBINO:--She favors the Offerman site and Supervisors Mitchell and Brown, also, favor the Offermand site.

MR. ECONOMOU:--If my memory serves me right, I think she was going to make a statement - -

MRS. MALONEY:--I just wanted to correct Mrs. Messiah, when she said she didn't have any official representative, that We have always discussed at the Community Relations every fourth Monday, and, of course, you don't live in my district, but if you would come to Community Relations, you would hear us.

MRS. MESSIAH:--No, I didn't mean it -

MRS. MALONEY:--Well, I just resented it - your saying you didn't have representation - -

MRS. MESSIAH:--No, I wasn't speaking of political representatives - -

CHAIRMAN RUBINO:--May I inform the lady that she is not your political representative - she is your representative of the Masten district.

MRS. MESSIAH:--No, I was not referring to her - I was referring to an answer, Dr. Manch, in relation to the official document presented by our group - not to Mrs. Maloney.

CHAIRMAN RUBINO:--Are you satisfied, Mr. Economou?

MR. ECONOMOU:--I am satisfied - I wanted this for the record.

CHAIRMAN RUBINO:--Mrs. Maloney, are we properly recording you, in regard to Mr. Gust's observation - that you are in favor of the Offerman site?

MRS. MALONEY:--Yes, I have made myself quite definite that we can not have a more ideal site, that the children of the Masten district must be educated and I stand by the children of the Masten district, and then for those of us that are in the Masten district to dedicate ourselves to make the district better.

MR. ECONOMOU:--Fine.

CHAIRMAN RUBINO:--We commend you and congratulate you. On the question - it's been moved and seconded that [illegible] we petition the Honorable Body, the Common Council to establish for us the right to use the Offerman Stadium site as the junior high school for the Northern tier of the Masten District. Is that correct?

MR. RAND:--Right.

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You have heard the motion. All in favor say Aye, contrary, none - so ordered.

AYES-ECONOMOU-MRS. MILCH-RAND-MRS. STAROSCIAK-RUBINO-5
NOES-NONE
ADOPTED

- - - - - - - - - -

CHAIRMAN RUBINO:--I would like to thank all of you people, and I say that with all the sincerity in my heart. I know I speak for the entire Board. I want to thank you people for gracing us with your company this morning. I think it's in the highest of American tradition . I hope that you will have felt that we have given you your opportunity to make yourselves heard. It's been truly a wonderful morning, an enlightening morning, I am sure for the Board, and I hope it's been equally enlightening to you people.

If there is nothing further - -

MRS. AMY TIESLER - 21 Dupont St. - appeared before the Board - -

I live in the Masten district. I just want to say that I think a lot of theseproblems would be obviated if there were a negro on the Board of Education, and I do hope that the Board of Education will do it's bestto get a negro representative as soon as possible.

CHAIRMAN RUBINO:--I think your question might be better raised in the Executive Branch of our government. The Mayor has the power of appointment to all city agencies and I think that would be the place for you to make your observation known.

MR. CALDWELL:--Mr. Chairman, thank you for your indulgence.

CHAIRMAN RUBINO:--Thank you for being with us, Mr. Caldwell. Anything else, Dr. Manch?

DR. MANCH:--Yes, we have the matter of insurance bids - -

CHAIRMAN RUBINO:--We will have a three-minute recess.

-Adjourned for three minutes -

- - - - - - - - - - - - - - - -

CHAIRMAN RUBINO:--The meeting is called to order. We have one more item on the agenda.

DR. MANCH:--I should like to call to your attention that informal bids for insurance were opened in room 809 on

Plaintiff's Exhibit 34.

MR. NITKOWSKI:--Members of the Board of Education and Dr. Manch: I hereby present and recommend for your serious and sincere consideration the following proposal, prior to any final action on the Woodlawn facility:

1. That Lafayette High School facility be established as a Junior High School.

2. That Lafayette High School be established in the present new Woodlawn School, 9th through 12th grades, with emphasis on Science and Math subjects.

Woodlawn being established as a high school would take in the entire Lafayette High School boundary, since the 9th grade would remain.

Lafayette Junior High School boundary could include some schools east of Main Street.

This plan, if approved, would help assure continuing high quality educational standards in the heart of the city, to the educational benefit of the many students in that area.

I move approval of this recommendation

SECONDED--DR. WRIGHT

CHAIRMAN RUBINO:--Motion made by Mr. Nitkowski, seconded by Dr. Wright, on the question. If there are no questions, we will proceed with a roll call vote.

MR. ECONOMOU	No
MR. MARKEL	No
MR. NITKOWSKI	Aye
MR. PARLATO	No
MRS. SLOMINSKI	No
DR. WRIGHT	Aye
MR. RUBINO	No

AYES-NITKOWSKI-WRIGHT-2
NOES-ECONOMOU-MARKEL-PARLATO-SLOMINSKI=RUBINO-5
DISAPPROVED

- - -

CHAIRMAN RUBINO:--Mr. Parlato -

MR. PARLATO:--I have a motion I would like to make on Woodlawn Junior High School.

CHAIRMAN RUBINO:--You may proceed.

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MR. PARLATO:--Before doing so, I would like to distribute to the Board members that resolution in writing, along with an explanatory note.

Mr. President, my motion is made up of the motion proper, and I have some explanatory notes which information I will read immediately after my motion.

I move that the attendance district for Woodlawn Junior High School be established as follows:

All of elementary school districts No. 8, No. 16, and No. 17;

That portion of elementary school district No. 74 south of Northland Avenue; and

That portion of elementary school district No. 53 north of Glenwood Avenue.

For the purposes of this junior high school district, children shall be considered residents of elementary School No. 8 who reside in that portion of elementary school district No. 48 north of Best Street.

Also for the purposes of this junior high school district, children shall not be considered residents of elementary school district No. 17 who (a) reside in one of the two optional areas of district No. 17, and (b) who have duly elected to attend an elementary school other than No. 16 or No.17.

Lastly, all boundary streets are optional.

I would like to, at this time, read my explanatory notes:

Relative to the inclusion of that portion of Elementary School No. 74 south of Northland Avenue, I would like to note that the portion of that school district north of Northland Avenue, is now already in the Fillmore Junior High School district.

As to including the portion of elementary school district 53 north of Glenwood Avenue, the approximately 165 pupils thus taken from No. 53 will relieve a projected classroom shortage there, and will still leave enough pupils, namely, about 240, for what I understand to be efficient continuance of the 7-8 grade courses.

As to the section whereby I propose that children shall be considered residents of elementary school district No. 8 who reside in that portion of elementary school

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district No. 48 north of Best Street, these children are currently attending their 7th and 8th grades at No. 8; School No. 48 being just a K-6 school; the balance of the No. 48 district 7th and 8th graders are currently going to No. 37. This, I might add, is consistent with the material given the Board members to the point where, whenever we have been speaking of School 8, we have been speaking of this section of District 48 since 48 feeds these children into School 8.

As to the provision that children shall not be considered residents of elementary school district 17 who reside in one of the two optional areas of district 17 and who have duly elected to attend an elementary school other than 16 or 17, this pertains to the two optional areas in district 17 and for all practical purposes would not change anything in regard to the elementary schools affected. In the case of the southwest optional area where residents have the option to attend either 17, 16 or 56, this means that children who attend School 56 shall, as now, complete their 8th grade in School 56 and then go on to Lafayette Senior High School. In the case of the northeasterly optional area, the option being to attend either 17, 54 or 74, this means that children who attend either schools 54 or 74 shall, as now, go to Fillmore Junior High School after the 6th grade.

The net effect of this motion, speaking in terms of feeder schools now rather than geographical areas, is that Woodlawn Junior High School will serve all the 6th, 7th, and 8th graders currently seated in Schools 8, 16, 17, 74 and about half of 53, plus the few (roughly 51) 6th graders of district 48 who next year would be going on to School 8. As a matter of fact, also, with that we will discontinue 7th and 8th grade classes at Schools 8, 16, 74 and 17. All those children, instead, will be going to Woodlawn Junior High School and about half of the children of 53 will be attending Woodlawn Junior High School.

The estimated enrollment totals, with one correction being related to children from 48, the total enrollment is actually 1268 - that is projected estimate - and this, I feel, with the planned full capacity for Woodlawn Junior High School of 1450 constitutes an ideal first year enrollment to give the staff a chance to see just how things turn out.

MRS. SLOMINSKI:--I would like to second the motion, Mr. Chairman.

CHAIRMAN RUBINO:--You have heard the motion made by Mr. Parlato, seconded by Mrs. Slominski, on the question.

Plaintiff's Exhibit 34.

MR. NITKOWSKI:--Mr. Chairman.

CHAIRMAN RUBINO:--Mr. Nitkowski.

MR. NITKOWSKI:--Actually, this is my first introduction to this plan, and I would like to know what happened to the plan that the Superintendent recommended that we discussed at our last meeting five weeks ago?

MR. PARLATO:--Mr. Chairman, may I answer that question?

CHAIRMAN RUBINO:--We are having a free and open discussion, and I appreciate that all statements and questions are being directed to the Chair. You may proceed, Mr. Parlato.

MR. PARLATO:--This is essentially Proposal B as described in the material given us by the Superintendent about six or eight weeks ago with the simple modification that instead of the entirety of School 53, which would be 405 pupils, instead of that entirety of 53 included, there is just a portion, roughly 165. This is consistent with the further advice given us at about that time by the Superintendent that plan B as noted, including all of 53, totalling 1457 pupils was more than ideal - more pupils than ideal - less a planned ideal - so that is the only change, Mr. Nitkowski.

DR. WRIGHT:--Would it be out of order to ask the Superintendent what he thinks of this plan?

CHAIRMAN RUBINO:--I don't think anything is out of order at this point. I think the Superintendent of Schools is certainly our administrative adviser, and I think if any member of the Board desires a suggestion or an opinion, or whatever they may seek, I don't see anything contrary to any established pattern unless you would prefer to wait for the Board to more thoroughly discuss Mr. Parlato's motion.

DR. MANCH:--I could not comment on this now without making a rather lengthy statement at this point.....

CHAIRMAN RUBINO:--Excuse me, would you withhold your concern with the Superintendent's observation so that I could exchange places with Mr. Economou. I would like to make a statement. I might clarify some of the things that are in our minds. If not - I intend to use the Superintendent's services during this matter, along with all the rest of the members. So, Mr. Economou, would you please take the gavel.

Mr. Economou assumed the Chair at this point in the meeting.

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CHAIRMAN ECONOMOU:--Mr. Rubino.

MR. RUBINO:--Mr. Chairman, my colleagues on this Board of Education and ladies and gentlemen:

Before entering into this discussion, and in finally voting on the question of the districting of Woodlawn Junior High School, I wish to make it very clear that I have great respect and high regard for every member of this Board of Education, irrespective of the fact that some of us may find ourselves in disagreement with one another; and I also wish to state that I have great respect for the many people in our community who have expressed themselves on this question, whether I agreed or disagreed with their point of view; and I wish to extend my thanks to the Superintendent of Schools and his staff for having made available to this Board of Education all the facts pertinent to Woodlawn Junior High School, and additionally paying tribute to them for the countless hours they have spent with us on this question.

This Board of Education can take justifiable pride in the fact that all of us have spent countless hours discussing this issue and additionally going through much soul-searching. The one aspect of the discussion regarding Woodlawn Junior by the members of our community during the past few months that has particularly disturbed me was the unfair criticisms that have been leveled at the Board of Education of 1958, a Board of which I was proud to be President, and which was distinguished by the membership of Mrs. Elmer Milch, former president of our Board of Education, former president of the Buffalo Youth Board; Mrs. Joseph Starosciak, former president of our Board of Education, former president of the Big Six Cities Conference group, former member of the Buffalo Planning Commission; Mr. William I. Morey, a very distinguished attorney, very active in our community affairs, and Chancellor of the Episcopal Diocese; Mr. George F. Rand, very prominent businessman, former president of the Buffalo Planning Board and quite active in our community; and Mr. Peter Gust Economou, whose many, many years of service is well known to all of us.

As an honorable gentleman, I feel I am duty bound to defend the integrity, wisdom and judiciousness of that wonderful group of people who made up the Board of Education of 1958, and in whom the responsibility for the selection and final recommendation of the Woodlawn site rested. To that Board of Education, to our present Superintendent of Schools, Dr. Joseph Manch, who was then also Superintendent of Schools, to our present Associate Superintendent of Schools, Dr. Rooney, who was then also our Associate Superintendent of Schools, with

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the recommendation of the City Planning Commission, together all recommended that this Board of Education petition the Buffalo Common Council to take immediate steps to purchase the site of Offermann Stadium in order that we might proceed immediately with the erection of this desperately needed junior high school for the interest of the children of the Masten district.

It was on resolution of that late and very distinguished Councilman of the Masten District, Mrs. Cora P. Maloney, that the Common Council, who has complete and absolute jurisdiction on the acquisitions of school sites, they unanimously supported the request of the Buffalo Board of Education. I might also add that two of the supervisors of the Masten District supported the need for a junior high school in this area.

The appreciation for the great work that Cora Maloney performed in helping to make Woodlawn Junior High School a reality was clearly evidenced by a petition to our Board of Education recently, asking us to name Woodlawn Junior High School the Cora P. Maloney Junior High School.

Never in the memory of my many years in the public service can I recall a more cooperative, a more united, and a more non-partisan partnership to a community enterprise, on all levels of government, that was dedicated to the proposition of building a school for the children of the Masten district.

I would submit to this community, and to us, that here was the Board of Education of 1958, on the strong recommendation of the Superintendent of Schools, supported by the City Planning Commission, petitioning the Common Council who, by resolution of one of its members, Cora Maloney, unanimously, irrespective of party affiliation, approved the acquisition of the present Woodlawn Junior High School site.

This is the type of governmental cooperation that the City of Buffalo can afford more of, and so I salute all those people, the members of the Board of Education, the Superintendent of Schools, the members of the City Planning Commission, the President of the Common Council, William B. Lawless, and the Council Members, Walter Banas, Frank Grimm, Stanley Makowski, the late Cora Maloney, Victor Manz, Vincent Masterson, Charles McCabe, Andrew Morrissey, Stephen Moskal, King Peterson, John Ramunno, the late Daniel Rich, and Charles Weston, who so outstandingly performed their duties with no concern other than the desperate needs of the children of this area.

At this point, I would like this Board of Education, with your indulgence, to go back with me to the year 1958 to observe the actual situation which confronted the Board of Education at that time:

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On November 12, 1958, in the official records of the Buffalo Board of Education, Dr. Manch reported the year 1953 membership pf Schools 8, 17, 53, and 74, including 93, was 2871 children. He also reported the total 1958 membership of this same school area had now risen to 3852. In February 1964, the actual membership of these schools had risen to 5027 children.

In the light of these alarming statistics submitted by the Superintendent of Schools, and because of the necessity for providing a junior high school for this very overcrowded area, the Superintendent of Schools was given an official study prepared by Dr. Bernard J. Rooney and staff, and which was presented to the Board of Education on November 3, 1958. It read as follows:

> In order to keep the Junior High School for the north section of the Masten District in the general area of Northland, Purdy and Alexander Streets, the Board of Education would be forced to acquire approximately 175 to 200 parcels of real estate - request the closing of Lyth Avenue between Alexander Place and Purdy Street - assume all responsibility for displacing possibly three hundred to six hundred families - defend the expenditure of two or more millions of dollars for site acquisition - the loss of $900,000 or more in property taxes and expect a delay of at least five years before construction could start on a new junior high school building.
>
> We respectfully suggest that the Board of Education reject this proposed school site No. 1 and this was suggested and requested by Dr. Rooney through Dr. Manch, and consider The Proposed Alternate Site, Site No. 2, Offermann Stadium.
>
> Dr. Rooney's study continues - he goes on to say:
>
> This office has made a study of the proposed site and respectfully submits the following recommendations:
>
> 1. Acquire Offermann Stadium property.
>
> 2. Acquire all properties on Woodlawn and Masten.
>
> 3. Acquire five parcels of property on East Ferry Street west from Masten Avenue.
>
> 4. Do not consider acquisition of Church property.
>
> The above recommendations are made for the following reasons:

Plaintiff's Exhibit 34.

1. The properties described are for the most part sub-standard or far below sub-standard.

2. To build a Junior High School inside an area bounded by sub-standard properties would serve no good purpose. The church property located on East Ferry Street and Michigan Avenue is an asset.

3. Acquisition of the proposed properties would permit more effective orientation and location of classrooms, shops and auxilliary facilities.

4. Acquisition of proposed properties would contribute much to the total site, permit effective grounds development and make a worthwhile contribution to the entire community.

Dr. Rooney continues:

It is essential that the Board of Education take every possible step to expedite the approval and acquisition of a suitable site for a Junior High School in the north section of the Masten District. The City Planning Commission agrees with the statement that all of the residential properties listed on the attached sheet are clearly defined as sub-standard and has no objection to the acquisition of these properties for part of the school site.

School Districts to be Served (Dr. Rooney continues) Elementary Schools No. 8, No. 17, No. 53, No. 74.

Suitability of Site: Good

Location in Relation to Transportation: Very good

Assessed Value of Properties to be Acquired: $291,860.

Families Displaced: Approximately 35 to 40 families.

Time to Acquire Site: 6 to 10 months.

Now, I submit to this Board that the Board of Education of 1958 was faced with the very humane concern of displacing from 300 to 600 families - defend the expenditure of over two million dollars to bring about this displacement either through the Real Estate Division or through condemnation proceedings - remove $900,000 in property taxes from the city tax rolls, and defend a five-year delay which it would take to displace 300 - 600 families, while at the same time, thousands of youngsters in the Masten District were pleading desperately for a new school to relieve the already overloaded schools in that area.

Plaintiff's Exhibit 36.

MR. PARLATO:--I would like to make a couple of comments on what you said.

DR. MANCH:--Sure. I would like to hear comments. May I just finish with a word of thanks to the people who did participate and make their ideas known.

DR. BLACKMAN:--Are they going to continue?

DR. MANCH:--Yes, this is going to be an on-going thing with different groups with different ideas. If this gains some acceptance by the Board, we would meet for implementation. The other part of the coin is, as I said, how to work out the problem of what you would do with the students there. There is also the possibility that you might want to start with the student body as it is and introduce some of these programs. This is what you have - all kinds of possibilities.

MR. PARLATO:--In speaking of what we might envision as being the ideal school, or the ideal educational program sounds all well and good until one remembers that we are running not a school, but a school system comprised of 102 schools. To propose to a Board that just recently, in the formulation of its new policies, has been urged to make those new policy statements under the title, equalizing educational opportunity in the City of Buffalo, to see grandiose plans for now what euphemistically is going to be called a magnet school but which, in every spelled out detail, is simply a grand scale preferred school that is being envisioned - this school is obviously being planned for conscious, deliberate, superiority of facility over any other school in the City of Buffalo. This is not equalized.....

DR. MANCH:--Attendance would be voluntary.

MR. PARLATO:--Attendance would not simply be voluntary because we have not even decided, as you said, on what the pupil placement policy is going to be or what the pupil placement objective is going to be. It may remain the same pupils. It may, and I venture an educated guess, that it will end up that the pupil placement policies ....

DR. MANCH:--It will be an integrated school.

MR PARLATO:--Well, however they are formulated, they will be formulated with an eye to conditioning the availibility of the school on the _____ to be part of a race mixing plan.

DR. MANCH:--Well, Mr. Parlato, do you object to setting up a superior school, as you call it?

MR. PARLATO:--Do I object to setting up one superior school out of eight? Yes. Do I object to preferring one school over another? Yes. Now, further I object to the preference being simply, wholly on the basis of a racial formula and a racial objective.

I said before, the magnet school to attract people to a racial something, to me is a vicious attraction. And, as I said before, while it may - a proposal I can make that may not have the superficial concealment that this has -- of what we consider desirable to attract people to a new school system, very simply we could innovate, put a price tag, put a price tag on the voluntary transfer and so forth, for race balance and again, let's just say we'll pay each family willing to transfer their children into what we contemplate to be the ideal racial quota classroom. Let's pay people to associate with Negroes.

TWO PEOPLE SPEAKING

MR. PARLATO:--In cash; in cash.

DR. MANCH:--There's nothing concealed in this.

MR. NITKOWSKI:--Are you against it or for it, Mr. Parlato?

MR. PARLATO:--Of course I'm against it.

MR. NITKOWSKI:--The minutes we just approved - the last meeting, you said, and you mentioned School 12 - to improve the quality of education in those schools when we voted on our plan, and now.....

MR. PARLATO:--Did I vote yes for it?

MR. NITKOWSKI:--No, you voted - you said - you quoted something to the effect of improving the education in these core area schools like School 12, and now ...

TWO PEOPLE SPEAKING

MR. NITKOWSKI:--This is a carry on of that same philosophy.

MR. MURPHY:--You made the statement, Mr. Superintendent, that it would be an integrated school. How can you say that ?

DR. MANCH:--This is one of the reasons for establishing a magnet school. That is why I say there is nothing concealed. As Woodlawn Junior High School now stands, it is considered by any definition that anybody has proposed, a segregated school. It is largely Negro.

MR. PARLATO:--I object to that statement - by any definition.

Plaintiff's Exhibit 36.

DR. MANCH:--.... a definition that has been proposed by the State Education Department, or by any other authority ....

CHAIRMAN GOODYEAR:--I think that's a reasonable enough definition.

DR. MANCH:--What's the proportion of Negro students in that school?

MR. NITKOWSKI:--About 98%.

SEVERAL PEOPLE SPEAKING

MR. PARLATO:--That's not the question -- what constitutes a segregation...

MR. MURPHY:--Let's get back to.....

SEVERAL PEOPLE SPEAKING

DR. MANCH:--I was trying to answer your question, Mr. Murphy.

The challenge has been to see what can be done with that school to desegregate it. When the Board originally considered the districting of that school, the decision was that the Board could not see a way to organize the district so that it would be an integrated school, and what we're attempting to do here is to find a way of desegregating it on a voluntary basis. In other words, the challenge is this - and I say that I am not at all sure, nobody can be until you make an attempt at this - we need to study what is being done in some other cities. I sent Mr. Laing down to look at the World of Inquiry School in Rochester, which is a magnet school, in which they draw students from the suburbs. The attempt is to see what can be done to develop a program which would be so good that white students would be attracted into the school. It wouldn't have to serve just the community, and that possibly even students from outside the city might be attracted, based on the excellence of the program.

This is not a new idea. Other communities have done it.

CHAIRMAN GOODYEAR:--And whether it results in integration or not, there is nothing that is compulsory about ....

MR. MURPHY:--That is what I am getting at. You are hoping it will be an integrated school.

CHAIRMAN GOODYEAR:--That's right.

DR. BLACKMAN:--Let me just ask this question. This sounds very exciting, but how do you plan to staff the school when we

MR. MURPHY:--You are hoping.

DR. MANCH:--Oh, yes. We can't pick out the students and say you are going and you are not - we are hoping that if it is good enough that people can really be attracted by a program. In a sense, it may be a test to see whether people mean what they say when they say, wewould not object to our children going to school with Negro pupils - we want good education. This will be the best we can offer. I don't know what the result will be.

MR. PARLATO:--Are you saying that the objections are currently valid, Doctor?

DR. MANCH:--What objections?

MR. PARLATO:--Are you saying that the current objection, that a person might indiscriminately make and say that in sending a white child to school with any Negro child is educationally harmful. Are you saying that's what we are trying to correct? That educational harm?

CHAIRMAN GOODYEAR:--I don't get what you are.....

DR. MANCH:--I don't get.....

MR. PARLATO:--I say that you are saying that a school which is consciously racially mixed will serve to eliminate an argument that people are making against wanting their children to associate in school with Negroes. Are you saying that this is a valid argument?

CHAIRMAN GOODYEAR:--I think you are totally confusing, let's say.

DR. MANCH:--I am only saying that there are some people who really.....

MR. PARLATO:--I don't think so.

DR. MANCH:--I am only saying that there are some people who really need to be given an opportunity to indicate whether they would send their children to a school even though the building happens to be located in a Negro area of the city and I think basically Woodlawn is located in a Negro area of the city - if the program is so good they felt the value of the program is excellent and they would send their children the greater distance to attend.

MR. NITKOWSKI:--Mr. Chairman, I.....

DR. MANCH:--..... the World of Inquiry School in Rochester is a small school but they do have children from all over the city and the suburbs attending.

MR. NITKOWSKI:--The reason the Council did it - at that time, you recall, there was a question - they thought we wanted to move from City Hall. They forgot that at one time they wanted to evict us so this was the reason they had received and filed that resolution at the time, but if we approve this, this will show the intent on the part of the Board not to move out of City Hall, not to have an administrative building and show that it is going to be a comprehensive high school. I think this would help in ....

CHAIRMAN GAJEWSKI:--Dr. Blackman.

DR. BLACKMAN:--Mr. President, I think we will run into the same old problem again. We're really not looking at the total picture here. I think this is a very excellent proposal, and it would do well to be placed in a fringe area not totally surrounded by a black area as you have been. I think that is going to deter and to take away possible students who would come in.

You have extreme difficulty in getting white people to come into predominantly black areas. For instance, the stadium - people won't come to the games. The Bisons had to move out because it was predominantly a black area, and we're not facing the issue. This is the issue. Today they haven't really become apprised of the fact that there is really no difference in black and white, you see, and until this gradually occurs, we're going to have to try to place these areas where they will be acceptable, where they can get full utilization of the total community.

This will be, and I say that all you have to do is to look at Woodlawn, which was going to be an integrated situation - we were going to draw a circle around it except that the circle stopped one block on the other side. Well, this is an oblong circle. I wouldn't like to see this happen to this brand new school. I'd like to see this Board get out here and find an area in a fringe area where it can be properly balanced you might say - 75-25 - and then everybody would be happy. This is all I have to say.

I am going to write to the Cpuncilmen and I am going to express these wishes to them and ask them - please don't acquire that property for the Board of Education.

6471

Plaintiff's Exhibit 37.

January 28, 1970.

MR. NITKOWSKI:--Mr. Chairman, I would just like to correct one statement that was made here. Woodlawn never was to be an integrated school - that was the first big item we had - it was never set to be an integrated school.

MR. MURPHY:--No. Councilman Maloney - that was her baby and she was as pleased as punch with it.

DR. BLACKMAN:--Dont' talk about her, she's dead.

MR. MURPHY:--No, no ....

SEVERAL PEOPLE SPEAKING

MR. NITKOWSKI:--The Board never set up boundaries to make that an integrated school, if you recall.

DR. MANCH:--When the question first came up, I said, and it's on record, that if I had anything to do with it, I would do everything possible to see that it was an integrated school. I did make a number of recommendations which were not accepted, you recall.....

MR. PARLATO:--That's not true, Dr. Manch.

DR. MANCH:--Wait a minute ....

MR. PARLATO:--..... not a single recommendation on the districting of Woodlawn.

DR. MANCH:--I made a number of recommendations to this Board. You made it very clear that you were not going to accept them. My memory is very good, and I said in a Board meeting, it was in the Council Chamber - you made the recommendation, Mr. Parlato....

MR. NITKOWSKI:--Point of order, Mr. Chairman.

MR. PARLATO:--There were no staff recommendations.

CHAIRMAN GAJEWSKI:--The question is on the report.

MR. MURPHY:--I'd like to reply to Dr. Blackman. I have to take exception to what you say because when I read this, I thought - to use the word that Dr. Manch used - I thought it was very exciting.

DR. BLACKMAN:--I agree with that.

MR. MURPHY:--And if it ever turns out anything like it is outlined here, I think it will be an integrated school. I think they will come from all over.

DR. BLACKMAN:--Not at that site. You could place it at Bailey and Delavan and it might turn out, or you could place it over here and it might turn out, but it is not going to turn out right here, and experience has shown you this. All you've got to do ....

MR. MURPHY:--We have never had a school like this.

DR. BLACKMAN:--Listen, the Buffalo Evening News, they did the most beautiful job I've ever seen a month before that Woodlawn school opened up. They spent thirty days selling that school to everybody - this is the greatest thing that ever happened in America - they had a picture every day - they had the corridors, television, they had the facilities and all, and then what happened - a totally segregated institution....

MR. NITKOWSKI:--It was set up as that. It never was planned any other way.

SEVERAL PEOPLE SPEAKING

CHAIRMAN GAJEWSKI:--One at a time, please.

DR. BLACKMAN:--I am totally against the possibility of another totally segregated institution.

MR. NITKOWSKI:--The Board agreed that Woodlawn would be a segregated school - the boundaries were planned that way - 98% it would have been.

MR. MURPHY:--They needed a school there.

MR. NITKOWSKI:--They needed a school there.

MR. GOODYEAR:--I think this was before I came on the Board. I remember the controversy about it.

CHAIRMAN GAJEWSKI:--Anyone on this report?

6473

Plaintiff's Exhibit 37.

January 28, 1970.

MR. GOODYEAR:--Yes. I'd like to say that I believe if we are going to plan our schools entirely to try and avoid segregation, I think we are going to end up by having segregation anyway and I agree with Mr. Murphy - I think the way this school is set up, I think we have a good chance of having a fine facility and having an integrated facility. I think the fact, as Dr. Blackman has suggested, of having it in a fringe area, I think is just promoting the idea of bussing, and I don't think we want to promote the idea of bussing.

DR. BLACKMAN:--All these students will be bussed anyway.

MR. NITKOWSKI:--The regular buses.

MR. GOODYEAR:--I think the idea of putting this in a fringe area compounds the problem for the Negro pupils - it makes them the ones that have to travel. Now, if you have it here and have a good facility, it is not the Negro pupils who are going to have to travel. It is going to be the other people and I think this is a good idea.

DR. MANCH:--The answer is in the program.

MR. GOODYEAR:--And I think, also, as Dr. Manch has pointed out on several occasions, if you try to plan everything to avoid segregation, you are not going to accomplish this result, because events are going to take over without your having that much influence on those events, and I think this sounds like a fine program, and I certainly am in favor of it.

MR. MURPHY:--I don't think any ....

DR. MANCH:--Let me say something else - not to contradict Mr. Goodyear - but if I may say what I said, in my own language - what I said is that if the present trend continues where white people are moving out of the city, and more black people are coming in, it may be eventally impossible to integrate within the city.

MR. GOODYEAR:--That's correct.

DR. MANCH:--This happens, and it seems to be happening. This was brought up again in the meeting with the Governor by somebody else in New York. That is what I said - we don't want a

segregated school system, but if you look at the figures and the latest figures published in the HEW report indicated we have more black children than we had five years ago, so apparently this trend is going on. What I said is that we need a change in the minds and hearts of people and we need white people to stand still and not be moving out. However, I'd like to raise this question -- Dr. Blackman and I have talked about this a number of times and we don't disagree about many things -- but what I am raising a question about is Main-Delavan -- let's think of our city, let's think of this corner - the kind of location that Woodlawn would be even though it's just a few blocks away. Main-Delavan is on a main bus route both ways - across from Canisius College. You've got a cemetery on the other corner. True, west of Main-Delavan you have largely now a black population, but as was pointed out, if this program is as attractive as it is, most students are going to come by bus anyway - and I'm hoping that we will attract students from outside the city because of the program - [illegible] no where else in the city is this program being offered. Now this is the challenge. Can this happen? I am not a soothsayer, I can't be sure. Dr. Blackman has some really genuine concerns about this and I respect his concern, but the question then is, where do we go if we don't build it here; where do we find an area where we can guarantee this will not happen.

MR. MURPHY:--I would like to suggest an alternative site which ....

CHAIRMAN GAJEWSKI:--We are on the question of the report - let Mr. Parlato - he wanted to say something about this report.

MR. GOODYEAR:--I just want to add one other thing. I think your point about it being on a main bus route is a very important one. This is a place where it shows. Woodlawn is not in a place where it shows as much as this school would.

SEVERAL PEOPLE SPEAKING

MR. MURPHY:--With a steady stream of traffic coming downtown in the morning where the kids could be dropped off.

CHAIRMAN GAJEWSKI:--Mr. Parlato.

MR. PARLATO:--First of all, I made the motion on the districting of Woodlawn Junior High School which, from the outset of its

planning had not been selected on account of some available space to be chosen on the basis of perhaps low assessment around which then some circle was going to be drawn. As I recall from my investigation and from the discussion in public by all those who had participated in the original planning, the area was chosen, hopefully within that area, hopefully even as close to the center of that area as necessary, but if need be, Woodlawn Junior High School could have been outside the fringe of the area which it was designed to serve as a neighborhood school.

In this case the school followed the need, it wasn't that the school was built, as this is being proposed possibly, and then a need sought to be able to utilize the school. The motion was made, incidentally, without staff recommendation although in conferences, in private conferences and in some public statements, there were a variety of recommendations....

DR.MANCH:--Six different ....

MR. PARLATO:--Six different recommendations. For the record, only one motion was made and it passed six to one.

DR. MANCH:--You're really telling the story there because, let's put it right on the table, the Board had caucused and it was very clear that no proposal to integrate the school would be accepted by the Board.

MR. PARLATO:--And, for the record, only one motion was made. No one who disagreed with that had the courage .....

TWO PEOPLE SPEAKING

DR.MANCH:--It had nothing to do with courage. It's a matter of .....

CHAIRMAN GAJEWSKI:--One at a time, please.

SEVERAL PEOPLE SPEAKING

MR. NITKOWSKI:--This is not on the report.

CHAIRMAN GAJEWSKI:--We are off the subject. We are on the report.

MR. PARLATO:--Assertions were made as to what happened at the time and since I made that motion, I felt it was my prerogative ... a couple of observations.....

Plaintiff's Exhibit 37.

January 28, 1970.

MR. PARLATO:--All right, I'll say it then - that the behavior of many of the kids at Fosdick Masten is reputed to be, and it is reputation after all on which people gauge their actions, the reputation of conduct, for conduct at Fosdick Masten is pretty, pretty low - is atrocious.

MR. NITKOWSKI:--Who reported this to you?

DR. BLACKMAN:--Not now.

SEVERAL PEOPLE SPEAKING

DR.MANCH:--This is not going to go unchallenged. I want an answer on that.

MR. PARLATO:--I say the reputation is, and we can have a hearing on it if you'd like - I say, whatever the reputation ....

DR. BLACKMAN:--Mr. Parlato, I think it is very bad to make a statement like that because of the students who are going to that school at this time, and I wouldn't make ....

MR. PARLATO:--I think that a lot of the statements that have been made about the Buffalo public schools should be challenged on the very same basis.

CHAIRMAN GAJEWSKI:--We are off the subject again. We are speaking about a report.

MR. PARLATO:--All right. Secondly then, whatever the conduct of these children be, if these children are going to be given first call, and after all this school was originally planned to accommodate the pupils from Fosdick Masten - do you then expect to limit the number in the art and occupational courses to a 50-50? Let me just - you, who would go through this extravagance,.....

DR.MANCH:--We have some ....

MR. PARLATO:--Keep in mind that if you have an enrollment of 1500, that if approximately 500 come from Fosdick Masten, you who are counting in terms of race, that will fill the two to one ratio and that thereafter,the thousand kids who are going to be in arts and music,will have to be all white?

DR.MANCH:--Are you arguing that we should put the school some where else, or that we should change the program? What's your point, Mr. Parlato?

MR. PARLATO:--Let me put it this way.

MR. GARDNER:--I think we all get his point.

DR.MANCH:--O.K. We all get his point.

MR. PARLATO:--I don't think Mr. Gardner is speaking for all of you; for sure, he doesn't speak for me. The question was asked of me, if you please, Mr. Gardner. My point is that this is a pretentious, extravagant scheme that I don't even think is going to end up satisfying the crazy motivation that's behind it.

MR. NITKOWSKI:--I'll have to read the minutes to understand what he is saying anyway but, Mr. Chairman, please .....

CHAIRMAN GAJEWSKI:--Mr. Nitkowski.

MR. PARLATO:--I don't think you read any better than you hear.

MR. NITKOWSKI:--We have before.....

CHAIRMAN GAJEWSKI:--I would like to make sure that personal remarks be kept out - so often we have these sly remarks being made, and I don't think it is fair.

MR. NITKOWSKI:--..... when we have these programs going into a school, we always pick a site, select a site before we select an architect. Now, this site has been selected and what this Board is doing here now - I have been on this Board a few years and we have done this same work, I believe, four-five years ago. This was done since that time - this site has been talked about - it was in our five-year program. Now, the groundbreaking should be in the spring, and we are going to go ahead and select another site where the architect has done soundings, he has put a lot of work into that corner, and now we are going to select another site which is against our policy -- we get the site first and then we select the architect and then we break ground. If we are going to go ahead and select another site for this school , we will be badly mistaken -- what we should be doing here, we have a five-year program,

Plaintiffs' Exhibit 47.

1:75-438 CV
EP 6-14-74

BOARD OF EDUCATION – CITY OF BUFFALO

INTEROFFICE MEMORANDUM

Date January 9, 1973

SUBJECT: Transfer Policy between Public School #4 and Public School #34

TO: Suzanne M. Carman, Supervisor of Social Studies

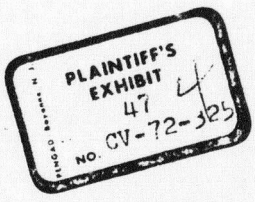
FROM: Margaret V. Lombardi, Asst. Superintendent, Pupil Personnel

In checking the boundary descriptions of the above schools, the pupils residing in Public School 34's district attend from Kindergarten through the 6th grade. After they have finished the 6th grade, they are allowed to transfer over to Public School #4.

The boundary description shows that School #4 now receives children from the same streets in School #34's district for their 7th and 8th grades.

The 8th grade was added this year in order to relieve the overcrowding at Southside Jr. High School.

MJG:eab



21

Plaintiffs' Exhibit 47.

SCHOOL DISTRICT FOR ELEMENTARY SCHOOL #4

K - 8

BOUNDARY DISTRICT

Beginning at the intersection of Main Street and Buffalo Creek, north on Main Street to Scott Street, east along Scott Street to Michigan Avenue, north on Michigan to the New York Central Railroad tracks, east and southeast along the New York Central Railroad tracks to Buffalo Creek, southwest along Buffalo Creek to Fuhrmann Boulevard, northwest along Fuhrmann Boulevard to Main Street, the starting point. The district served by School 34 which is an annex to School 4 is included within the School 4 district. The exact area served by School 34 will vary from year to year with the needs of the district.

Street Directory

Alabama	176-up	Michigan	1-Niagara Section of the Thruway
Chicago	1-Niagara Section of the Thruway	O'Connel	All (Grade 7 & 8)
Fitzgerald	All (Grade 7 & 8)	Perry	1-454
Fulton	1-294	Red Jacket	All (Grade 7 & 8)
Hamburg	1-400 (Grade 7 & 8)	Sidway	All (Grade 7 & 8)
Hayworth	All	South	All (Grade 7 & 8)
Katherine	All (Grade 7 & 8)	South Park	1-500
Kentucky	All (Grade 7 & 8)	Tennessee	All (Grade 7 & 8)
Louisiana	201-up	Vandalia	All (Grade 7 & 8)
Mackinac	1-230		
Miami	1-257		

Plaintiffs' Exhibit 47.

SCHOOL DISTRICT - ELEMENTARY SCHOOL #4

- 8

BOUNDARY DISTRICT

Beginning at the intersection of Main Street and Buffalo Creek, north on Main Street to Scott Street, east along Scott Street to Michigan Avenue, north on Michigan to the New York Central Railroad tracks, east and southeast along the New York Central Railroad tracks to Buffalo Creek, southwest along Buffalo Creek to Fuhrmann Boulevard, northwest along Fuhrmann Boulevard to Main Street, the starting point. The district served by School 34 which is an annex to School 4 is included within the School 4 district. The exact area served by School 34 will vary from year to year with the needs of the district.

Street Directory

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Hamburg	1-400 (Grade 7 & 8)	Sidney	All (Grade 7 & 8)
Hayworth	All	South	All (Grade 7 & 8)
Katherine	All (Grade 7 & 8)	South Park	1-500
Kentucky	All (Grade 7 & 8)	Tennessee	All (Grade 7 & 8)
Louisiana	301-up	Vandalia	All (Grade 7 & 8)
Mackinaw	1-230		
Miami	1-257		

Plaintiffs' Exhibit 48.

PLAINTIFF'S EXHIBIT 48 NO. CV-72-325

INTEROFFICE MEMORANDUM

DATE: March 21, 1973

SUBJECT : REVISED PLAN TO RELIEVE POSSIBLE OVERCROWDING AT SOUTH PARK AND SOUTH PARK ANNEX IN SEPTEMBER 1973

TO : Mr. Morris Raiken, Asst., Superintendent for Secondary Education

FROM : Gerald S. Hare, Principal Assigned to Main Office

Unless some relief is offered South Park High School for the school year 1973-74, the figures listed below would apply. These are maximum figures based upon the theory that " drop-outs" and students going to vocational schools will be balanced by "walk-ins" and transfers from parochial schools.

	1972-73		1973-74	
9	267 (At Annex)	9	342	
10	825	10	847	267 Annex
11	656	11	825	580 Southside
12	643	12	656	847
At South Park	2124	At South Park	2328	
At Annex	267	At Annex	342	
TOTAL	2391	TOTAL	2670	

The overcrowding at the annex could be relieved by sending more 9th grade students to Southside, South Park High School, however, could not accommodate the 2328 upper classmen without severe overcrowding or overlapping sessions.

Two alternate proposals were suggested to the Board of Education on February 7, 1973. These plans proposed the use of Schools # 67 and # 69 as 7th grade centers or the retention of pupils in Schools # 27 and # 33 for their academic work with transportation to Southside for their Industrial Arts and Home Economic classes. Southside was to have grades 8-10 only, while South Park would become a 9-12 school.

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Plaintiffs' Exhibit 48.

The following revision of these plans appears more feasible. It is based upon the retention of a larger number of 7th graders in their home school for academic work and the transporting of these pupils to a nearby school 1/2 day a week for their Industrial Arts and Home Economics classes.

The plan has been discussed with the principals of the schools concerned. They have agreed that space is available to accommodate their pupils.

Mr. Jones has agreed that Board of Education busses can be made available for the transportation needed. Community leaders are aware of the plan and approve the retention of pupils in their home school where possible.

Briefly the plan proposes:

1. Southside would discontinue its 7th grade and establish a 10th grade to retain most of their present 9th grade pupils.
2. South Park would reestablish a 9th grade and the annex at # 67 would be discontinued.
3. School # 67 would be utilized as a 7th grade center for the pupils of Schools # 28 and # 67. It will also serve as a Industrial Arts and Home Economics Center for School # 70.
4. Schools # 33, # 26, # 27 and # 70 would retain their 7th grade pupils for their academic work. These pupils would be transported 1/2 day a week to a nearby school for Industrial Arts and Home Economics classes.

The tables that follow show the present use of these facilities and the use projected for 1973-74.

Plaintiffs' Exhibit 48.

SOUTH PARK

	1972-73		1973-74	SOURCE
9 (At Annex)	267	9	382	(9) 29-76 (10) annex 267 67-89 S.Side 28 69-75 295 72-99 4-40 382
10	825	10	295	
11	656	11	825	
12	643	12	656	
	2124		2158	
At Annex	267			
TOTAL	2391			

SOUTHSIDE

7	300	7	---	(9) S.Side 300 #31 35 415
8	330	8	300	
9	500	9	415	(10) S.Side 500 to S.Pk - 28 552
10	---	10	552	
Spec	75	Spec	75	NOTE: 55 pupils from # 38 81 pupils from # 27 would take Ind. Arts and Home Economics at Southside 1/2 day a week.
	1415		1427	

SCHOOL # 67

7	99	7	166	(7) 67-66 28-100 166
8	89	8	89	
9	267		255	
	445			NOTE: 49 pupils from # 70 would take Ind. Arts and Home Economics at # 67 1/2 day a week.

Plaintiffs' Exhibit 48.

SCHOOL # 69

	1972-73		1973-74	
7	69	7	64	
8	76	8	79	NOTE: 69 pupils from# 26 would take Ind. Arts and Home Economics at School # 69 1/2 day a week.
	155		143	

SCHOOL # 33

7	---	7	55	These students would take Ind. Arts and Home Economics at Southside

SCHOOL # 26

7	---	7	63	These students would take Ind. Arts and Home Ec. at School # 69

SCHOOL # 27

7	---	7	81	These students would take Ind, Arts and Home Ec. at Southside

SCHOOL # 70

7	---	7	49	These students would take Ind.Arts and Home Ec. at School # 67

OTHER 7th GRADES

School # 4	(113)	Stay at # 4
School # 29	(82)	Stay at # 29
School # 40	(49)	Go to # 44
School # 72	(92)	Stay at # 72

1432
Plaintiffs' Exhibit 49.

Dfts Ex 2
F.O.I.P

Dated [illegible]
March [illegible], 1973

[illegible]

[illegible]

RECOMMENDATION

Attached is the proposed plan to relieve the overcrowding that has been forecast for September, 1973 at South Bank High School and South Bank Annex. The plan will avoid the need for double session or other undesirable adjustments at these schools.

PREPARED BY:
Eugene T. Reville
Associate Superintendent
Instructional Services

RECOMMENDED BY:
Joseph Fenech
Superintendent of Schools

(23)

Plaintiffs' Exhibit 57.

JUN 13 5 37 PM '73
OCR-OCR BRANCH
OFFICE OF EDUCATION

June 8, 1973

PLAINTIFF'S EXHIBIT 57
NO. CV-72-325

Dr. Joseph Hunch
Superintendent
Buffalo Public School District
712 City Hall
Buffalo, New York 14202

Dear Dr. Hunch:

We have completed our review of the Buffalo School District's application for assistance under the Emergency School Aid Act.

As you know 45 CFR, Section 185.43 (b) (2) provides:

> "No educational agency shall be eligible for assistance under the Act if, after June 23, 1972, it has had or maintained in effect any other practice, policy, or procedure which results in discrimination on the basis of race, color, or national origin in the recruiting, hiring, promotion, payment, demotion, dismissal, or assignment of any of its employees (or other personnel for which such agency has any administrative responsibility), including the assignment of full-time classroom teachers to the schools of such agency in such a manner as to identify any of such schools as intended for students of a particular race, color, or national origin."

This regulation is based upon Section 705 (a) (1) (B) of the Act (Public Law 92-318).

According to data furnished by your district on the Elementary and Secondary School Civil Rights Survey (Form OS/CR 102) dated October 15, 1972, the following schools are in violation of the above-cited Section 185.43 (b) (2):

(25)

Dr. Joseph Hanch

Plaintiffs' Exhibit 57.

School No.	Black Students	Black Faculty
37	100%	43%
47	100%	62%
32	99%	75%

School No.	White Students	White Faculty
83	100%	100%
83	100%	100%
70	100%	100%
72	100%	100%
49	100%	100%
11	99.8%	100%
18	99.8%	100%
38	99.8%	100%
67	99.8%	100%

45 CFR, Section 185.44 (d) (3) sets forth the remedy for this violation, i.e., reassignment of faculty to these schools so that each of them falls within 75% to 125% of the percentage of minority faculty in the district as a whole. For example, minority faculty in your district as a whole is 11%, therefore in the above listed schools minority faculty should constitute between 7% and 13% of these schools' faculties.

45 CFR, Section 185.43 (d) (5) provides:

> "Assigning students to ability groups, tracks, special education classes, classes for the mentally retarded, or other curricular or extracurricular activities on the basis of race, color, or national origin. Racially or ethnically identifiable groups, tracks, or classes which cannot be justified educationally under the criteria set out in paragraph (c) of this section shall be presumed to be assigned on the basis of race, color, or national origin."

Again, referring to the School Civil Rights Survey (Form OS/CR 102) of October 15, 1972, the following schools are in violation of this Section, in that these schools have 100% minority enrollment.

School No.	Black Students	Black Faculty
50	100%	46%
35	100%	40%

White students receive the services of Special Education classes in regular schools.

Dr. Joseph Hench **Plaintiffs' Exhibit 57.**

In your response to our letter of May 25, 1973, you have not indicated that the required corrective action will be taken.

Therefore, the Buffalo School District is ineligible for assistance under ESAA. However, if you wish you may apply to the Secretary of Health, Education, and Welfare for a waiver of your ineligibility. Such an application should be mailed to:

Mr. Peter Holmes
Director
Office for Civil Rights
U. S. Department of Health,
Education, and Welfare
330 Independence Avenue, S.W.
Washington, D. C. 20201

no later than 5 days after your receipt of this letter and must include the specific number of teachers, by race, to be moved in each of the affected schools.

Your application for waiver should also include evidence that the violation under Section 185.43 (a) (5), 45 CFR, has been eliminated and the students assigned to No. 50 and No. 35 have been reassigned to special classes on a nondiscriminatory basis which satisfy the requirements of Section 185.43 (c).

Upon a review by the Secretary of your application for waiver, you will be informed in writing of his decision.

Please let me know if I can be of any further assistance.

Sincerely,

Robert H. Seitzer
Regional Commissioner
Office of Education

CC: Seitzer
McDonald
Henderson

HK/ab

Plaintiffs' Exhibit 102. December 13, 1971

Mr. Ewald B. Nyquist
Commissioner of Education
State Education Department
Albany, New York 12224

Dear Commissioner Nyquist:

It is now seventeen years since the Supreme Court made it clear that racial discrimination in public education violates the U.S. Constitution.

It is seven years since the Yerby Dixon petition, citing a violation of Sec. 310 of the State Education law, was filed with your department.

The recitation below of the sequence of events reveals that your office has permitted the Buffalo Board of Education to make token gestures toward desegregating the Buffalo Public School System by a series of piecemial efforts and unkept promises. The Board's policies have resulted in increasing the number of racially isolated black students. Your timidity in dealing with the Board has encouraged these reluctant men to cling to a bankrupt desegregation program and to continue an educational system that, in many ways, is not relevant for over 30,000 black children. At the same time, thousands of white children have been warped by their parent's stereotypes by the time they come in contact with black children, if they ever do. The situation has not been an accident and its perpetuation, permitted by you, is no accident.

Let us see what has happened.

March 1964 - The Board of Education sets boundries for Woodlawn Jr. High School which makes it a black segregated school. <u>Dejure segregation</u>

Sept. 1964 - The Yerby Dixon Petition is filed.

Feb. 1965 - The Commissioner of Education directs the Board of Education to submit a plan for the progressive elimination of racial imbalance in the public schools. The plan, submitted by the Board in May, 1965 is unsatisfactory to the Commissioner.

Sept. 1965 - The Board of Education requests assistance from your department to make an in depth study of the school system including the problem of racial imbalance. The then Commissioner obliges and a panel of citizens is appointed to monitor the study which is made by the Center for Urban Education. Out of this comes the so called 4-4-4 plan which the Board approves in principle in Sept. 1966.

Nov. 1966 - After the Commissioner sets a deadline for a plan to implement the study's recommendations, the Board adopts a 16 pt. plan. While the plan was reluctantly supported by Civil Rights groups at the time, as a start, we now know that the Board adopted two policies which became rules, that resulted in dejure segregation. It is now well settled law that any rule or regulation by School authorities which continues or heightens racial segregation of School children is dejure. The policies we refer to are:

1. Children in grades K-4 would continue in their neighborhood schools, thus perpetuating segregation. (While this policy is now somewhat diluted, only black children in these grades are bused, these are very few and of course there is no room in white schools for all the black students in these grades.)

2. White children will not be transported to black schools. (no other way of transferring white children to white schools has been devised).

Thus the Board deliberately limited desegregation since there is a lack of space in white schools for all black students.

The 16pt. plan also calls for middle schools with integra-

Plaintiffs' Exhibit 102.

Jan. 1967 - A coordinator of Integration is appointed.

Summer 1967 - Because a further progress report is required, the Superintendent of Schools appoints an Advisory Council asking its members to make suggestions as to how to desegregate the schools.

October 1967- The Advisory Council makes many suggestions in its final report to the Superintendent. Theyinclude, among others, Princeton Plan pairing, portable classrooms at white peripheral schools, cross-busing of students for the sake of equity and maximization of desegregation.

November 1967 The Superintendent ignores all of the Advisory Councils suggestions, but one, in his recommendations to the Board. Later on, the Advisory Council cannot persuade the Board of the inadequacy of the Superintendent's report and the Board submits its report to the Commissioner. It outlines a long range plan to build middle schools and is essentially a continued committment to the policy announced in the 16pt. plan.

Winter-Spring 1968 - The Commissioner agrees to the longrange plan but asks the Board for interim steps to desegregate the schools, after members of the Advisory Council inform him of their portable classroom idea. The Board, in April, 1968 commits itself to build portable classrooms.

July, 1968 - The Common Council refuses to fulfill a committment made in the city's model cities application to Washington to create a fair housing low covering owner occupied two family housing, such housing not being covered by the State Law. This type of housing comprises the bulk of available rental housing. On the same day, the Common Council votes approval of an unconstitutional

amendment to a city ordinance which has the effect of banning portable classrooms. Common Council records reveal the racist overtones of the speeches of some Councilmen and the desire to block the Board's modest step toward desgregation.

Late Summer 1968 - The Common Council's action designed to ban portable classrooms is struck down by the State Supreme Court. The Common Council continues to refuse to pass bond issues for money for planning middle schools and a struggle goes on before the money to finish the West Hertel Middle School is assured. The City's legislative body trys to and succeeds in preventing action by the Board to move toward desgregation.

Dejure perpetuation of segregated schools.

Fall 1968 to the Present - More reports by the Board of Education to your office showing no substantive move to alter its policies. There are minor districting shifts to prevent tipping. An unconstitutional state law passed in 1969 designed to stop busing in large cities is struck down by the Courts in 1970. This removes the legal excuse for the Board of Education to continue its bankrupt policy of one way busing. The Common Council refuses the money for middle schools. In February 1971, the Board orders the coordinator of Integration to make a study of the possibilities, problems and implications of cross-busing. No report has been made public at this writing.

Mr. Commissioner, the above events demonstrate that:

1. The Common Council will not, in the forseeable future, vote the money required to build middle schools and comprehensive High Schools needed to implement the Board's desegregation plan for grades 5 - 12.

2. The Board of Education will not voluntarily alter its plan

Plaintiffs' Exhibit 102.

for desegregation although the Common Council's actions make it impossible to carry the plan out.

3. The Board of Education refuses to alter its unfair policy of one way busing.

4. The Board of Education refuses to alter its plan to keep grades K-4 segregated. (there have been minor exceptions noted above)

5. The Board of Education has failed to keep its promise to make Southside Jr. High into a middle school. This would increase black enrollment to about 30% of the student population.

6. The Board of Education has failed to keep its promise to desegregate Woodlawn Jr. High School by creating a magnet school there.

7. The Board of Education has failed to keep its promise that it would find out why white students living in the District of East High School fail to attend school there. It is known that South Park High School, overcrowded and some distance from the East High School area, offers a course in Polish and that, perhaps, over 100 white students from the East High School area, still predominantly white, take this course at South Park. East High School does not offer this course, thus the school system's policy of permitting a student to attend the school which offers a course in the language of his choice is used to enable white students to avoid going to East High. Since Polish can be given at East High School as well as South Park the Board of Education not only made a promise it did not fulfill, it has deliberately kept this school a black segregated school. In addition, the Board refuses to desegregate all high schools by assignment, when it is clear that its policy of not transporting white students into black schools should not be applicable to High Schools.

The foregoing facts establish that we have a dejure segregated public school system in Buffalo and in violation of the 14th amendment rights of minority students. For, as the U.S.

District Court in San Francisco has said, in the context of segregation, dejure segregation means that school authorities have exercised powers given them by law in a manner which creates or continues or increases substantial racial imbalance in the schools. It is this governmental action, regardless of motivation for it, which violates the 14th amendment. See Offerman vs. Nit Kowski 248 F Supp 729 (W.D.N.Y. 1965) aff'd 378 F 2nd 252 nd Cir 1967 as one of several cases for compelling authority that that even if de facto, segregation must also be eliminated.

The tender treatment by your office of the Buffalo Board of Education demonstrates the interlocking roles of New York State and the City of Buffalo in continuing this dejure segregated school system.

In addition, past history reveals that the Commissioner of Education has failed to communicate to Buffalo Parents why there is a need to desegregate this city's school system despite your department's issuance of pamphlets, books, brochures, memos, statements of policy and other handouts. You have left the battle to a Board of Education that refuses to lead the community in this matter, and quite likely cannot, because of political and economic ties as well as the social out look of its members. It should also be noted here that this same Board cannot even devise a method to physically maintain our schools, some of which are in an incredible state of deterioration.

It is also apparent, that the Board of Regents, despite its policy statement issued in December, 1969, which said in part, "the efforts of the State of New York to eliminate segregation and to speed integration must be increased", will not actually help. To our knowledge, Buffalo's representative on the Board of Regents has been publicly silent and has never explained the Board of Regent's policy to Buffalo parents.

Under all of these circumstances including the continuing and mounting harm to black and white students in our schools,

Plaintiffs' Exhibit 102.

we call on you to order the Buffalo Board of Education to submit a plan for the complete desegregation of the Buffalo Public School system to become effective September, 1972, reminding the Board of the many ways to desegregate the schools without money from the Common Council for new buildings. Concurrently with this, we urge you to start intensive discussions with Suburban Boards of Education relative to programs leading to educational parks and a Metropolitan School district, bringing the full force of your office to bear. For a recent survey has revealed 12 school districts in W.N.Y. which are more than 99.44% segregated white.

We also urge you to come to Buffalo to explain to all parents, having children in our schools, the reasons for your order and to urge their cooperation in carrying out an approved plan. You should also explain why busing is a necessary tool or device to carry out a desegregation plan and help to dispel myths and other fallacies regarding busing. For example, according to the U.S. District Court in San Francisco, the National Safety Council statistics demonstrate that busing is by far the safest means of getting children to and from school and that where busing has been established regardless of the real or fancied beliefs of parents, children enjoy busing. Evidence presented in Courts also reveal that the problem of getting parent and child together in emergency situations is not aggravated by busing. We feel it is your duty to help dispel the fears of parents who are genuinely concerned and to knowledgebly explain away the statements of those who use the busing issue to keep black and white children from going to school together.

Plaintiffs' Exhibit 102.

The Yerby Dixon case is still open, there has been no remedy in seven years, there is nothing to indicate this Board will voluntarily give one. You have power and the duty to do so. We ask you to carry out your duty and hope to hear from you soon.

With best regards,

Norman Goldfarb
Norman Goldfarb
For the Board of Directors
of the Citizens Council on
Human Relations

Reverend Milton Williams (by N.G.)
Reverend Milton Williams
President

Raphael DuBard (by N.G.)
Raphael DuBard
Chairman, Education Committee-
Buffalo Chapter - N.A.A.C.P.

CITIZENS COUNCIL ON HUMAN RELATIONS, INC.
Box 54 Niagara Square Station
Buffalo, New York 14201

Plaintiffs' Exhibit 103.

Yerby Dixon

THE UNIVERSITY OF THE STATE OF NEW YORK
THE STATE EDUCATION DEPARTMENT
OFFICE OF THE PRESIDENT OF THE UNIVERSITY
AND COMMISSIONER OF EDUCATION
ALBANY, NEW YORK 12224

Thursday
January 20
19 72

Mr. Arnold B. Gardner
President
Board of Education
City Hall
Buffalo, New York 14202

Dear Mr. Gardner:

Almost seven years have elapsed since Commissioner Allen rendered Decision No. 7470 on February 15, 1965, in the appeal of Yerby Dixon and others in regard to racial imbalance. Jurisdiction over this appeal was retained by the Commissioner and the right reserved to make further orders as necessary.

In subsequent developments a 4-4-4 organizational structure for the Buffalo schools was approved as part of a plan for the progressive elimination of racial imbalance. Review of the reports submitted to me shows that, while many worthwhile efforts have been made and successes achieved, the problem of racial imbalance in the Buffalo schools is still a long way from solution. Two middle schools, Fillmore and West Hertel, are in operation. The Board has considered a plan for five additional middle school complexes, but from what I can learn there is little hope of their being constructed in the foreseeable future.

Over 3,000 black children from inner city schools are attending peripheral schools and special efforts have been made to increase the amount of space available in peripheral schools. Supportive programs have been conducted for the receiving schools as well as for the children being received, and there is evidence that the children transferred to peripheral schools have achieved better, in general, than pupils who remained in the inner city schools.

The Superintendent has tried to develop means of cooperation with adjacent suburban districts to reduce the racial isolation of black children

Board-Nyquist corres. Nyquist Testimony

Plaintiffs' Exhibit 103.

in Buffalo schools and white children in th[illegible]ban schools. Unfortunately, these efforts have not met wit[illegible]ess, and I believe that the reasons were beyond his control. As Superintendent Manch has often commented, some kind of metropolitan plan involving Buffalo and the suburbs would be desirable for reasons set forth in the policy statement of the Regents entitled "Integration and the Schools." However, this type of solution appears unlikely in the very near future, although Federal court decisions such as the recent one involving Richmond, Virginia, and two adjacent counties may eventually bring about some changes. (See newsclip enclosed)

Testimony in the Lee vs. Nyquist case tried in 1970 in the U. S. District Court for the Western District of New York showed that achievement scores in reading and arithmetic in the 20 most heavily black elementary schools in Buffalo were markedly lower than in the 20 most heavily white. There is further evidence that black children transferred to peripheral schools made greater gains in academic achievement than did black children remaining in the inner city schools. Faced with the hard fact that segregation is more severe in Buffalo now than it was seven years ago, with over 20 schools more than 90% black, and 29 schools 90% or more white, it is clear to me that only a new approach can equalize educational opportunity for the children of Buffalo. I believe that this is recognized in Buffalo because members of my staff have reported to me on the activities of a committee which is working to develop a more comprehensive plan for integrating the schools.

In view of the foregoing, I ask that you strengthen your efforts to develop a plan different from the one originally formulated as a consequence of the Yerby Dixon appeal. I do not suggest that eventual implementation of a 4-4-4 plan of organization be precluded, but do strongly urge the elimination of segregation in the early grades where integration is most easily achieved and most effective in the lives of children.

In order that I may be able to make an informed judgment with respect to an appropriate course of action in exercising my continuing jurisdiction over the Yerby Dixon appeal, I ask that the Board of Education submit to me by April 1, 1972, a desegregation plan for the schools in the

Plaintiffs' Exhibit 103.

Buffalo school system under which every school would substantially reflect the racial composition of the entire district. You will note that on page 12 of the Regents policy statement of January 1968 entitled "Integration and the Schools"

> "the Regents recommend the establishment of school attendance areas that make possible, wherever feasible, a student body that represents a cross-section of the population of the entire school district."

Attention is also directed to Recommendation 2 of this same document, namely,

> "the Regents recommend action by school boards to develop and keep up-to-date a district plan for achieving and maintaining racially integrated schools. This plan should be developed with the assistance of a citizens' advisory committee broadly representative of the community. Appropriate and effective participation in the formation of educational policies is the right of every parent, and special effort should be made to provide opportunity for the involvement of minority-group parents in school affairs that affect their children."

In harmony with this recommendation, and to insure that all persons having an interest in the schools of Buffalo have opportunity for such participation through their chosen representatives, I recommend that the Superintendent of Schools establish a committee of representatives from the Board of Education and the Superintendent's staff, and representatives chosen by the principals, the teachers, the students, and community organizations representing a cross-section of the City of Buffalo. This committee should be charged solely with the task of developing the best possible plan for accomplishing the desegregation of the schools of Buffalo, including a timetable for its implementation. To help in accomplishing this task, the technical assistance of the Division of Intercultural Relations of the State Education Department is, of course,

Plaintiffs' Exhibit 103.

available to you.

Please report to me by February 15, 1972, on your progress in complying with this request.

Faithfully yours,

Ewald B. Nyquist

Enclosure

Plaintiffs' Exhibit 104.

BOARD OF EDUCATION
City Hall
Buffalo, New York 14202

JOSEPH MANCH
Superintendent of Schools

ARNOLD B. GARDNER
President

PLAINTIFF'S EXHIBIT 104
NO. CV-72-325

February 15, 1972

Hon. Ewald B. Nyquist
Commissioner of Education
State Education Department
Albany, New York 12224

Dear Commissioner Nyquist:

This will acknowledge officially the receipt of your letter of January 20, 1972 addressed to me as President of the Buffalo Board of Education. Your letter deals, of course, with the racial imbalance in the Buffalo schools.

In your letter you asked me to report to you by February 15, 1972 on the progress of this Board in compliance with the requests contained in your letter.

Dr. Joseph Manch, Superintendent of Schools, and I visited with you and Mr. Stone in your office on January 27. At that time we discussed rather fully the matters contained in your January 20 letter.

We have now scheduled a meeting to be held here in Buffalo on February 21 between you and any members of your Staff who may accompany you, and the members of the Buffalo Board and some of our Staff.

For your information, the Board will be meeting prior to your arrival and expects to receive at that time our Staff report on school integration which was ordered last year. This will specifically include a discussion of cross-bussing and of possible acceleration of the middle school program.

Plaintiffs' Exhibit 104.

Hon. Ewald B. Nyquist,
Commissioner of Education

February 15, 1972

I trust that the above matters satisfy your request for a report by February 15, and I look forward to seeing you next week.

Sincerely yours,

Arnold B. Gardner.

ABG:i

cc: Dr. Joseph Manch

Plaintiffs' Exhibit 105.

February 21, 1972
PRESS CONFERENCE WITH COMMISSIONER NYQUIST

CHAIRMAN GARDNER: Ladies and gentlemen as you know the Commissioner agreed to hold a press conference after his meeting with the Board. We spent several hours with him this morning, Board Members, the staff, some Councilmen joined us. We had a very interesting and I think useful discussion and the Commissioner is here to answer your questions. Is there a question?

PRESS: Can we hold on just one moment. Are we going to be talking to Mr. Nyquist?

CHAIRMAN GARDNER: Yes.

PRESS: Could you move over a little to your right Channel 2. Channel 2, can you move over a little bit.

PRESS: Commissioner Nyquist can you tell us what you told the Board this morning.

COMM. NYQUIST: Well I think it was an exchange. I didn't come here to tell the Board anything. I was invited here to answer questions. Was asked whether I meant what I said in the letter that I communicated to Arnold Gardner, and, as I say, there was an exchange between Board Members and with me and the Board.

PRESS: What were your impressions of the integration plan presented this morning?

COMM. NYQUIST: I did not get into that. That was discussed by the Board before I got here and not having had any advanced knowledge of it, because it was just submitted, we didn't get into a discussion of it.

PRESS. Commissioner what about the April 1st deadline, does that still hold?

COMM. NYQUIST: Yes it does.

PRESS: Commissioner, why Buffalo? Why not Syracuse, Albany, Yonkers, and a number of other large cities with similar problems?

COMM. NYQUIST: Well we have to go back to the history of this. The original Yerby-Dixon case some years back involved a plan for racial integration and the progress there has lagged. The Commissioner of Education retained jurisdiction in that case and we had a program in studying these things, a racial integration, certain target districts, and, because this was one where I had retained jurisdiction, we moved on this along with some others at the same time; Utica, for example, where I had an appeal.

PRESS: Commissioner is there any place in New York State where a voluntary program of student exchange between neighborhood districts have proven successful?

COMM. NYQUIST: Yes, Niagara for one. Rochester another.

PRESS: Have you any ideas why it could not work in Buffalo?

COMM. NYQUIST: No, I do not.

PRESS: Commissioner what specifically do you think your visit to Buffalo has accomplished today?

COMM. NYQUIST: I hope it has accomplished some good or I wouldn't have come here. I think to have the entire Board, - I had conferred, as you know, with the President of the Board and with Dr. Manch in Albany, and they invited me to come here in order to chat with the School Board about this matter and I think we've been able to illuminate some of the question marks involved. That's about it.

PRESS: Mr. Nyquist you could ask for a great deal of community involvement and coming up with a plan. I think you got a taste this morning of how part of the community feels here. What advise can you give to the Board as far as community involvement that is anti-integration?

COMM. NYQUIST: Well it's going to take a -- to date the Board has a fairly representative committee. I understand they are entering a suggestion that it be enlarged to make it more representative than it is. No plan is going to succeed unless there is a representative community involvement. People are much more willing to accept things if they've got a part in the decision making process.

Plaintiffs' Exhibit 105.

PRESS: Commissioner what are the alternatives if the Board is unable to agree on a plan?

COMM. NYQUIST: Well I hope it won't come to that. I said to the Board this morning, got the same question, the Board is divided. I mean there's some difference of opinion on the Board as you probably know. I was asked that question and I said I'd jump off that bridge when I came to it because we have no precedent in this State, not to my knowledge, where a Board has refused to go along with a racial integration plan or a judicial decision of the Commissioner unless it was brought into the courts. There are two remedies in the law, and you can read the law as well as I can, when a Board -- see a school district or school board is an extention of the State. Education is a state function and when a Board refuses to carry out educational policies the Board of Regents or the Commissioner of Education, the two remedies that are specifically stated are the withholding of state aid and the initiation or proceedings to remove the Board. And I hope we don't have to come to that.

PRESS: Commissioner in terms of time again, are you taking a hard and fast approach on this thing? How much time does Buffalo actually have from your view to implement a workable plan.

COMM. NYQUIST: Well that was one thing we discussed this morning. In the letter that I sent I don't think that I have said that I will not accept immediate racial integration as mandated. Its' going to depend on flexible, - its' going to depend upon the good will of the Board in moving ahead to move from the status quo. You have at least 20 all black schools, or pretty near all black, and an equal number of all white. Its going to depend on the good will of the Board to make some movement to come up with a good plan. If it takes more time than next September, if its a good plan that will seek or accomplish our objectives here, I can go along with it.

PRESS: Commissioner Nyquist if you believe so firmly in public input as you seem to, why wouldn't you agree to a public hearing in Buffalo today?

COMM. NYQUIST: Well one is a matter of time. The second is what kind of a public hearing do you have in mind?

PRESS: Are you asking?

COMM. NYQUIST: Yes.

Plaintiffs' Exhibit 105.

PRESS: A public hearing with various interest groups, some of the people perhaps and organizations who were demonstrating downstairs could appear and present it.

COMM. NYQUIST: I think I got the message this morning.

LAUGHTER

COMM. NYQUIST: I couldn't get into the building.

PRESS: Mr. Nyquist there have been 15 community groups .....

COMM. NYQUIST: Miss, I can't hear.

PRESS: There was a group of 15 community groups that sent you a telegram saying that they'd like to meet with you when you came to Buffalo.

COMM. NYQUIST: Together or separately?

PRESS: No, together. They sent you that telegram last week as I recall.

COMM. NYQUIST: Yes, they did.

PRESS: Do you plan on meeting them then now that you're in Buffalo?

COMM. NYQUIST: No.

PRESS: Why are you not meeting with them?

COMM. NYQUIST: Well, first I can't do everything here, I got a few other things to do -- not that this isn't important. The second thing is I have staff who can do that. They've already met with some of them as a matter of fact. Mr. Nordos is here, - he's already met with some groups.

PRESS: Could the integration plan presented this morning be considered part of that good will that you were referring to earlier?

COMM. NYQUIST: Well I don't know what's in the plan. I don't want to say yes and then thereby imply endorsement of it. I just don't know what's in the plan.

PRESS: Do you have any suggestions where money could come from for any .....

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COMM. NYQUIST: We discussed that, someone brought that up. There are two or three possibilities. If I can point to Rochester, they invoked a racial integration plan that they had to find the resources to accomplish it within the budget that they had and they came up with $800,000 or whatever it was. Secondly, President Nixon has a program, which is called the Emergency School Assistance Program, a billion and a half dollars solely for the purpose of racial integration, and the Congress is coming down the wire on that this Spring, I think, as to, what their going to do with it. I don't think there's any question as to whether the thing will be passed. What the question in debate concerned in Congress on that bill is whether their going to invoke some kind of anti-bussing rider on it saying that you can't use the money for transportation, by motor vehicle, of students.

DR. MANCH: Commissioner I hate to interrupt but reference has been made to a plan which was presented to the Board this morning. We're not here for that discussion.

COMM. NYQUIST: Right.

DR. MANCH: I think it's important to point out this is not a plan. It was a study commissioned by the Board of Education and some alternatives were presented in it but this is for the Board and the Superintendent to consider now in terms of policy.

PRESS: Congressman Echols wrote a letter to the Board including the clip from the Times on the Richmond case and he seemed to be implying some interesting regional approaches to this. Is there anything you can do about it, is there any way you can .....

COMM. NYQUIST: I'm glad you asked the question. I clarified this for the Board this morning as well. I raised it myself. The Board of Regents and I met with our congressional delegation last Wednesday in Washington, D.C. - we do that annually for a lot of things - and I met Mr. Schimm and he had some misunderstandings as to my views on that and my powers with reference to consolidation of school districts. I happen to agree with the Richmond decision. But there's nothing I can do to effect that kind of consolidation in the State of New York. There are laws, procedures in the law and these have to be followed. I just happened to agree with the Richmond decision. I just can't do anything about it.

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CHAIRMAN GARDNER: Commissioner we had some discussion today regarding the effect of an integration plan on maintaining or achieving academic excellence in the schools. Would you comment on that?

COMM. NYQUIST: Well there's always a fear on the part of whites that if there's going to be an integration of the schools that then the standards that prevail in any particular school that they've enjoyed in the past are going to go down, that their particular kids are not going to get the same quality education - that's not true. In all the evidence there is .....

REPORTER'S MACHINE STARTED TO BUZZ AT THIS POINT AND HE TURNED IT OFF.

COMM. NYQUIST: All the evidence shows that when there is a racial social class integration that the achievement goes up for those who have previously been disadvantaged and that the whites don't suffer at all. As a matter of fact they gain, I think you gain. This is what this racial integration is about, it's to aid, bring up educational opportunities for those who have been mismanaged or deprived of them. Secondly, it's to bring about a better understanding between the races. And this is where a moral obligation comes in in our society. If we don't learn how to live together, and I don't think we're doing that successfully, what we're going to wind up with is separate armed camps. I think we've got to begin in the schools because nobody else wants to do anything about the situation like housing, and employment, and all the other things. We can't lag in education. I'm looking for a better society and all those who believe in this particular view point of our racial integration of our schools have the same objectives in mind.

PRESS: Commissioner in your mind is it necessary to racially balance every school in the city, and I'm referring like to specific vocational schools or technical schools that go on a high standard of entrance than just, you know, you're there so go.

COMM. NYQUIST: Well I said in my letter that I would expect a change in a substantial and I haven't defined that. I wouldn't expect some precise mathematical balance in every single school. As a matter of fact I don't think it would be constitutional, according to Chief Justice Burger, to lay down that kind of a requirement. But I would expect a desegregation of your all

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black schools and your all white schools and within what limits we have to come to. That's where some of the flexibility comes back.

PRESS: Mr. Nyquist to clarify one of the questions that was asked earlier, as I understand it from your answer the Board really has no choice in voting for or against integration in the schools, is that correct, if this has been ordered from Albany and that .....

COMM.NYQUIST: Well as far as I'm concerned, no.

PRESS: They don't? But if they do .....

COMM. NYQUIST: For developing some plan on integration and is acceptable to me.

PRESS: And if they do refuse two options, two possibilities - it would be the removal of state funding and .....

COMM.NYQUIST: Yes but - listen, I know the press, now don't make that come out as if, you know, this is what we're going to do. I said I'd jump on that bridge when I came to it.

PRESS: I realize this but this is a possibility .....

TWO PEOPLE SPEAKING AT THE SAME TIME

COMM. NYQUIST: And this Board is not going to come to that point.

PRESS: .....these are the only two possibilities opened - these are two possibilities opened .....

TWO PEOPLE SPEAKING AT THE SAME TIME

COMM. NYQUIST: That's what is in the law.

PRESS: Right.

COMM. NYQUIST: That's what is in the law. I like to work by persuasion as much as I can. Now that's not going to happen with this Board. I'm optimistic. If I weren't an optimist I wouldn't be in education.

CHAIRMAN GARDNER: Are there any other questions? Well, if not, thank you Commissioner.

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COMM. NYQUIST: O.K., thank you for this opportunity.

CONFERENCE ENDED.

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student population in every school should substantially reflect the racial balance in the entire district which is approximately 60% white and 40% black and minority groups. Now when we pointed out to him at length the fact that this will entail, we believe it will entail the moving of students, he said he's not going to answer that. He wouldn't respond to us on that. He said, that's what I meant when I referred to his statement about a judicial role, that he wants to see what sort of a report and plan we produce and he's not going to prejudge the question at this point as to how it would be accomplished. Now in light of the fact that people live in certain places and we have buildings in certain places, there's a logical and obvious conclusion to be drawn but he would not make that statement at this time.

DR. GAJEWSKI: In other words the Commissioner did not commit himself as to endorsement or disapproval of any cross-bussing plan.

CHAIRMAN GARDNER: I think the Commissioner - that's correct. What the Commissioner was saying to us is that if we can arrive at a plan to accomplish what he wants us to accomplish in any way whether it is bussing or anything else, he's going to study that. He has certain realities though and the people living where they do, and buildings being where they are, it's hard to imagine at this point at least that we can make, we can accomplish what he told us to accomplish without a bussing program. That's my statement and not his.

DR. MANCH: I can only say that .....

TWO PEOPLE SPEAKING

DR. GAJEWSKI: When he was talking about crossing the city boundary into the suburbs and metropolization of .....

DR. MANCH: Yes, we discussed that.

CHAIRMAN GARDNER: We discussed that in considerable length and he said he is very interested in regionalization and metropolitan treatment. He had included, you remember, in the letter that he sent to the Board a clipping from the New York Times on the Richmond case in which the federal court judge directed a plan of integration to be submitted which transcended school district bounds including the city and the suburbs. But he said that he does not believe that his office has the power legally to direct

a metropolitan integration program. He was not willing really to do anything in that regard and we pointed out to him everybody on this Board has said repeatedly the desirability of such a metropolitan plan as compared with the City only plan but I think he believes as frankly many of us do believe that the only way we're going to accomplish that is through litigation. I think he rather anticipates that there may be litigation arising out of his letter to us and the action that we take following that whether it's litigation because of a plan that's been adopted or because there has not been a plan adopted or what that format may take I don't know. But I think he, and this is nothing he said but from his reaction, general comments, I think he rather anticipates that we will be involved in some court cases.

MR. MURPHY: And was the Commissioner totally carefree as far as the effects it would have on the City of Buffalo to have a massive cross-bussing program and the hastily out migration of people?

CHAIRMAN GARDNER: I wouldn't call him carefree, no, Mr. Murphy. I think what he .....

MR. MURPHY: Apparently he is.

CHAIRMAN GARDNER: Well I think what he's saying to us too, he said one thing specifically on that point and another thing in his general attitude. I think his general attitude is that he, on behalf of the State Regents, the State Education System, it's stated what is the policy of New York State and this implementation of the policy and the effects of the policy in any given community are the primary responsibility of that community. He also said, in other words, he's concerned with the result and not so much the consequences .....

SEVERAL PEOPLE SPEAKING

DR. GAJEWSKI: That is the question I was going to ask. Are we discussing for bussing purposes or are we discussing the improvement of education in the various groups that are right now underpriviledged or isolated?

CHAIRMAN GARDNER: Well, he's talking - in his view the two go hand in hand. He said to us that he thinks, he said publicly before, he thinks that it's possible to achieve racial balance in the system and at the same time to do it without any adverse effect

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on the education of children to improve the educational level, social position, and psychological outlet of minority groups through integration without doing any harm to the education of the majority groups in the City. And the other thing he did say, and I think we ought to comment on, is that his staff has made a study of the exodus from large urban areas following the adoption of integration plans and following mandates from his office on integration, and it's their view that there has been no significant increase in exodus from cities as a result of integration. He acknowledges that people have left cities and maybe that's because of schools in some places, but he says they are unable to find, as a result of their study, any proof to show in any significant degree that the exodus has resulted from integration.

DR. BLACKMAN: Well I would certainly be in agreement with the Commissioner that I wouldn't expect a massive exodus of people from Buffalo. In fact, it is extremely difficult for me to understand why all of the controversy of cross bussing. If black children are able to be bussed into white schools then why can't white children be bussed into black schools. I don't know of any particular reason that they shouldn't be able to be bussed just as black children are bussed into the white schools. Maybe someone can tell me .....

MR. PARLATO: Two wrongs don't make a right. I'll tell you.

DR. BLACKMAN: Perhaps maybe someone can tell me, perhaps are white children too good to be bussed? I don't happen to know any who are.

MR. PARLATO: I think, - I have an answer to that. Besides the fact that two wrongs don't make a right, some people are led by other people. I think many of the children who are being bussed, there are comparatively few, and their parents have been brainwashed into thinking that the hardships involved in bussing are somehow worthwhile. I think they've been brainwashed into thinking somehow or another that a Negro child has to sit next to a white child in order to get a good education. That's false. If those parents, mislead and brainwashed as they've been, don't object that's perhaps their right to not object. I surely find no inconsistency with it but the fact that more enlightened parents of all races simply don't want their children bussed helter skelter just on account of skin color. I have .....

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CHAIRMAN GARDNER: Well I ..... I'm sorry.

MR. PARLATO: I have this to say about Commissioner Allen.

MR. MURPHY: Commissioner who?

MR. PARLATO: I'm sorry - Nyquist. Thank you.

_____: You should include both of those.

MR. PARLATO: Yes, well with due respect to Commissioner Allen, with due respect to Commissioner Nyquist, the order or the Yerby-Dixon Case which is apparently what he's referring to as his jurisdictional course in this matter started under the late Commissioner Allen 7 years ago. I question, to begin with, whether under any concept of a fair jurisdictional law Commissioner Nyquist still has jurisdiction that was taken by Commissioner Allen and concededly an adversary, an adversary proceeding, this Board was presented with certain charges and was given an opportunity to answer 7 years ago. There has not been a repetition of the charges except possibly by Commissioner Nyquist. And I say first of all that if he so nicely conceded that his position was not just administrative but was also judicial, or rather claimed that his position was not just administrative but was also judicial, I claim that Commissioner Nyquist's role and function in the problem presented to this Board in his letter of recent date is an adversarial role and I first and foremost suggest from the obvious evasions that Dr. Manch and President Gardner ran into in Albany, I suggest that we treat the Commissioner respectfully but as an adversary. I think the time has come where we better recognize that while the Commissioner may come up with suggestions that meet with this Board's approval and that consistent with this Board's majority conscience can be done, this Board has got to see that the question is going to come down to this; is the Board's better judgement, as to what this Board thinks is good for the City of Buffalo, is the Board's better judgement going to be subordinated to the judgement made abstractly from Albany by the Commissioner of Education, or maybe even made by the Commissioner of Education coming locally to make a study. It's a question of whether this Board is going to have something it doesn't want to do forced upon it. I say the adversary nature of the situation is something that should, that we should study promptly, I think we should, at an early stage, get into conference with the Corporation Counsel, the

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possibility of retaining our own legal counsel in the matter for the moment avoiding the question of what is going to be done concerning ourselves with who is going to make that decision.

CHAIRMAN GARDNER: Well, I for one am unwilling to treat the Commissioner as an adversary as yet. I recognize the very serious problems that his mandate imposes for us but when all is said and done, the City of Buffalo and this Board _____ in New York State, they say all the time that education is a state function. It is by the New York State Constitution that the Commissioner is the Chief Educational Officer of New York State, and I don't chose to regard him or the State of New York as our advisory. And I think that our first job is to decide how we're going to respond intelligently and affirmatively to his mandates and not to look for a war with him before we've had a chance to consider what our role and our responsibilities are.

Now he thinks, and I agree with him, he thinks he has the authority in this area by law. I don't think that we're really ready to dispute that in the manner you are talking. Now let me say one other thing .....

TWO PEOPLE SPEAKING

MR. PARLATO: I think between Commissioner Nyquist and the State of New York .....

CHAIRMAN GARDNER: Well you may do so but I doubt that he does, and I doubt that the Board of Regents, which appointed him, or the Governor which appoints the Regents, and so forth, looks at it in that fashion. I think his authority in this area is reasonably clear. He had his counsel with him, I should say, and we discussed some of the legal questions, very briefly, and his counsel is of the very definite opinion that he has the authority to do this although he lacks certain other authority, as I've said, with respect to metropolitan programs.

Now there are a few other things that I think I should have said and I didn't say. I chastised him over the fact that we've had relatively little contact from his office in the 7 years that have past.

DR. GAJEWSKI: I think that should be brought out. We have heard nothing about what have we done. Did we get any credit for it or .....

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CHAIRMAN GARDNER: Yes, yes, I want to talk - that's just the point exactly, Dr. Gajewski. I pointed out to him that we have heard, although we had some communication, we heard very little in response to our periodic integration reports that we submitted as required by his office, and he said that this results from several things. He recognizes perhaps they have not moved ahead, that they have not pursued us aggressively in this area. He has, number one, he referred to the anti-bussing law that was passed some years ago and only recently declared unconstitutional. He said that no doubt that that would put a serious delay in all of the - in this entire field. He is very familiar with what has gone on here in Buffalo. He made that quite clear. He knew all about the details about our present integration program. He knew about the question on the relocatable classrooms, the litigation and so forth this Board was involved in and, I think, the difficulties we've had in getting monies for the 4-4-4 Plan program for the middle schools. I think he feels that the Board have been stimied in certain areas by factors beyond its own control and I think maybe that's one of the reasons that the State has not pursued us aggressively in this field. But the Anti-Bussing Laws now have been declared unconstitutional and he wants to see some action. He was very - I must say Dr. Manch won't say this but I must say it -- he was very complimentary of Dr. Manch. He described our Superintendent as the Dean of Big Cities Superintendents of the Country and as one of the early leaders in this field and I was really delighted to hear some of the things that he had to say.

Now the hand that cajoles can also slap and I suppose we're in for some of each. But he demonstrated to me that he's very familiar with the problems we have here in Buffalo. He's been briefed on them by his staff, he knows that this is not an easy thing that he's put to us but I think he means to put it to us . And I think the sooner we recognize that the sooner we're going to make progress.

DR. MANCH: I'd like to make just three brief comments so at least I understand what it is that we ought to be doing. Number one, there is a mandate represented in the Commissioner's letter for us to have a proposal ready by April 1 which would do substantially what he indicates in his letter we should do.

Number two, I don't want to prejudge what our committee under Mr. Heck is going to come up with but at this point I can't see how we can do that without moving children back and forth across the city. If you look at the situation in the heart of

the city, or the generally black and minority group area, we have schools with about 98%, some cases practically 100% singular population in that respect and even though we move children out, as Dr. Blackman has said, one way and bring black children into "white" schools, with white in quotation marks, to integrate them, we leave the black schools still unintegrated. So how do you get integration there. It obviously means you'll have to move white children in. I merely want to state that as a fact and if Mr. Heck and his committee can come up with some other solution I'll be glad to hear it.

Number three, I want to make very clear that I thought at one point, even though I was not too happy about the 4-4-4 Plan since it didn't deal with the K-4 children where integration should start. I made that point many times. I thought we'd make more progress than we have had in developing middle schools and what we have seems to be working. I got very glowing reports about West Hertel and so on. And I think one of the problems is that we have not been able to achieve our goals in the building program particularly as it relates to high schools. You cannot create more middle schools for grades 5 to 8 without making a problem for high schools because you put the 9th grade back into them. We really needed those high schools. We need an East Side High School, we need a Main-Delavan School to ease the problem so we can develop more middle schools. We took Fillmore, which was a junior high school, we made a middle school of it. But it is difficult to do that when you don't have enough high school space. So I would say that possibly one of the reasons why we have this mandate now is because we haven't moved as fast as we should of in the middle school program and you know what the handicaps are in there.

CHAIRMAN GARDNER: He was interested in the fact that this study that we authorized, that Mr. Heck is working on, does include the conversion of the use of the existing buildings for middle school purposes. Mr. Heck told me the other evening that his report will identify, that's all I know about it, but the report will identify a variety of schools which might be used with less cost than new schools, constructing of new schools, schools that now exist that might be used for middle school purposes.

MR. PARLATO: I have, since the 4-4-4 Plan has been mentioned, I think it is worthwhile to make a couple of observations and that is this, that if we wanted to assume that the 4-4-4 Plan had been fully implemented, we want to assume that the Mayor or the Common Council would come up with the, what was it? -

$140,000,000 or so necessary to build 12 middle schools and convert others and so forth, and if we had delivered to the City of Buffalo and the Commissioner of Education everything called for under that 4-4-4 Plan we would still have what the Commissioner calls defacto segregation in grades kindergarten, one, two, three, and four. Therefore to say that it is our inability to implement the 4-4-4 Plan, which produces the Commissioner's dissatisfaction, misses the point.

DR. MANCH: Mr. Parlato.

MR. PARLATO: The commissioner is asking us to scrap the 4-4-4 Plan insofar as it relates to grades K, one, two, three and four because the 4-4-4 Plan did involve grades one, two, three and four, and kindergarten. It did not leave them in any limbo. The 4-4-4 plan as much as it prescribes a middle school system, et cettera, prescribes retention of the neighborhood school system for grades K, one, two, three and four.

DR. MANCH: That's the point I'm making and it is the faith of .....

TWO PEOPLE SPEAKING

MR. PARLATO: It's affirmatively, it is affirmatively said that it was better for the children even with racial balance of a society or a school system so-called as a goal that it was better to retain the neighborhood school system. So let not the Commissioner miss the point, he is asking us to contradict the conclusions reached in that 4-4-4 Plan submitted through his office, or through the Commissioner's office, a plan adopted by this Board with that office's approval.

CHAIRMAN GARDNER: He said something about that. May I interrupt just to say what it was, just as he reported. His counsel I think said this, the Commissioner agreed. It's important to recognize that - again I'm quoting the Commissioner and his counsel - that under a plan of integration of the first 4 grades or K-4, it would not be necessary, it would not involve a total abandonment of the neighborhood schools. You wouldn't be bussing, if it were bussing, every child because you are still retaining, if it's 60/40 or 70/30 whatever the ratio is, you are still retaining the 60 or 70 in that area and he's anxious, Mr. Stone, his counsel, was anxious to make it clear to us, and I suppose through us to the Board, that what they are talking about is some means by which the balance could be achieved retaining in that school more than a majority, either 60 or 70 per-

cent of the children who live in the immediate area. In other words, not every child is bussed.

MR. PARLATO: I realize that.

CHAIRMAN GARDNER: You and I realize that but I'm not so sure that it's commonly understood.

MR. PARLATO: To make it extreme .....

TWO PEOPLE SPEAKING

CHAIRMAN GARDNER: It's not a destruction of the neighborhood school system on that basis.

MR. PARLATO: The neighborhood school system says that for most reasons a child would attend a neighborhood school. Naturally if we take it in statistically oversimplified terms in the so-called white areas where there are going to remain 60% so-called white children in the school, obviously 60% of the children of that neighborhood will be attending a neighborhood school. On the other hand it will not, rather they'll be attending a school in the neighborhood. It will, nonetheless,no longer be a neighborhood school. It will be a bi or a tri or a quadruple neighborhood school.

Secondly, just by the way of an analogy, taking extreme situations, discussions on whether capital punishment is right or wrong doesn't suppose that everyone is going to be killed.

CHAIRMAN GARDNER: Well .....

TWO PEOPLE SPEAKING

MR.PARLATO: We're concerned -- my point is I'm concerned .....

TWO PEOPLE SPEAKING

MR. PARLATO: I'm concerned about bussing a single child on account simply of his skin color. The fact that their not all going to be transferred on account of his skin color means that the problem is just not going to be multiplied by 70,000,we might multiply it by 20 or 30 thousand.

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CHAIRMAN GARDNER: Are there any other comments? Dr. Gajewski.

DR. GAJEWSKI: I'm beginning to get a little concerned about whether we are or aren't - remembering that our prime mission and our first job of the Board of Education is educating the children of this City. We seem to be relegating it into a secondary thing and trying to come up with some - the Board is becoming a laboratory to s lve some of the social problems of the community's taking advantage of us to resolve somebody's headaches. I don't know, I think we're relegating our prime mission, education to a secondary thing and coming up with a discussion that may interrupt schooling, may interrupt education in this community. I think that we should get on with being concerned with providing education for all children equally in the whole City.

MR. MURPHY: And I think I can speak, I think I got my finger on the pulse of the views of the community from which I come and I can say categorically they will not put their children on busses early in the morning and bus them into the inner city. They just won't do it. In that respect I think the Commissioner is totally unrealistic and anybody that exercises such unrealistic judgement in this case, maybe his judgement in many other areas should be questioned too.

CHAIRMAN GARDNER: Well, the fact is the same statement was made by, and has been made by parents in San Francisco, Pontiac, Michigan, Charlotte, North Carolina, and Berkeley, California, and in a variety of other cities across the country where in fact the parents are now putting their children on the busses and they are going to school and the world hasn't - the children are still receiving an education. All that I'm saying is that none of us has any right today to close our minds to the ways in which we're going to solve this problem and it doesn't mean that we're not going to be educating the children as they deserve to be education, it means we may be doing a better job of educating some and not harming others.

MR. MURPHY: It was a problem that was created; it wasn't a problem that existed, it was a problem that was created.

CHAIRMAN GARDNER: It was a problem which .....

TWO PEOPLE SPEAKING

MR. MURPHY: Somebody said that the schools ought to be integrated, it created a problem.

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MR. PARLATO: It's the saying that created a problem.

MR. MURPHY: Right.

MR. PARLATO: Not the so-called imbalance. I would like to kind of brief you on what Mr.Murphy has said though and what Dr. Gajewski has said. Firstly, there can be, I would call them at best, second lined arguments. To begin with I think Dr.Gajewski does not correctly state the position of the race balance people. It's more sophisticated than he would seem it to be, or had it seem to be. The race balance components don't acknowledge that they are letting considerations of the race quota interfere with educational considerations. Their rationale, false as it may be, at least claims that the race balance, or the race quota is a root to better education. It's a logical deduction from a false premise. Everyone, everyone who has at one time or another conceived of a race plan whether it be the southern brand or segregation or any race quota, or any quota based on religion, national origin, any such proponent generally has and the sophistication enough to claim that his particular race formula is in furtherance of education, or of good employment, or good economics and so forth.

Secondly, I don't feel prepared to say that I would ever urge the citizenry to rebel against anything Commissioner Allen would order or this .....

SEVERAL: Nyquist.

MR. PARLATO: Of course, and I would not like to feel that the Board would really make it's judgement based on what the people would or would not accept, notwithstanding this Board felt that it should. I would then expect across the Board leadership possibly. On the other hand community reaction is something this Board should listen to with this in mind that before forcing upon a community what it doesn't want, this Board should be ultra, ultra careful that it knows exactly what it is doing and is ultra, ultra sure that what we're forcing is indeed the right thing. Trouble enough in a society that even I would propose be governed by law and order. Trouble enough forcing upon an unwilling citizenry the right thing. I see the proposal as being trying to be forced upon the citizens of Buffalo something which is absolutely wrong and immoral and ultimately constitutionally illegal. That's the problem, whether the citizens of the City of Buffalo, or of Los Angeles, or of Berkely, or wherever, learn to live with law which is good in that sense that we resist anarchy is one

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question. Whether what they have learned to live with is the right thing or the wrong thing should be of our real concern. I know from the brief knowledge I have of history -- Dr. Dressler we miss -- I know that at all ages and in all places in one age or another people have learned to live with the wrong thing. They tolerate it. Ultimately people's instincts toward law and order get them to swallow until the whole system becomes so bad possibly and then they rebel, but I surely wouldn't even say that a racist America whether by a segregation formula or a race quota formula would be that bad that anyone should consider rebelling. And surely there was not a slave rebellion, that being the ultimate in the one form of racial discrimination, there was no slave rebellion that set this country straight. And I expect there won't be any parent rebellion and surely would hope not. But let's not lead, let's not challenge our citizenry into the methods of undoing the wrong; let's avoid it in the first place.

CHAIRMAN GARDNER: Are there any further comments?

MR. HECK: Mr. Gardner, for the sake of clarity I'd like to make this point. You have .....

CHAIRMAN GARDNER: Mr. Heck you want to come forward so she can pick it up on the mike?

MR. HECK: What the Board of Education directed the Office of Integration to do through the Superintendent last February was to conduct a study and this is what we're doing. Just so you're not expecting something which we are not going to produce. We're certainly hopeful that what we have in our study can be used as a basis for a plan that will give us approximately 1 month to work on a plan. Just so you know we're not developing a plan right now just a study that we were directed to do.

DR. MANCH: In other words, you're not coming up with details of what children will go here and so on .....

MR. HECK: That's correct.

DR. MANCH: .....school by school in order to carry out the mandate of the Commissioner.

MR. HECK: Right. Well, we'll have about a month to come up with a plan that's a study at this point.

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CHAIRMAN GARDNER: Well it was not directed obviously in response to Nyquist's letter so it may not respond fully to that but it certainly should, in our consideration of the matter, it should advance us very far ahead of where we would have been had it not been accomplished. I had been thinking of it as rather of a plan, perhaps that's a misnomer. But all of the more reason for you to get it for us fast.

MR. HECK: All right, fine. I think it will contain the ingredients for a plan.

CHAIRMAN GARDNER: Does it concern itself with community attitudes and the human relations aspects of the proposals?

MR. HECK: It concerns itself with the human relations aspects but not too much with the community attitudes at this point.

CHAIRMAN GARDNER: Well, specifically if your proposal, if your report is to recommend or propose that a plan of action be adopted along certain lines, have you considered, or will your report when it's completed, consider the means through which this can be explained, interpreted to the community and perhaps made understandable and acceptable?

MR.HECK: Yes we have a section in there on that.

CHAIRMAN GARDNER: Because we discussed that with Commissioner Nyquist. With specific regard to your report we told him we hoped, we weren't certain, we hoped that it would include something of that kind.

MR. HECK: All right.

MR. PARLATO: I think its procrastination to defer the question until we get something from Mr. Heck. We don't know what a substantial race quota would mean in the schools of Buffalo in every school. He didn't say substantially in every school incidentally, he said a substantial reflection in every school.

CHAIRMAN GARDNER: Mr. Heck, just for the record, Dr. Manch asked about this You're working with a community committee, will you describe just approximately, I don't care who the people are for this purpose, but what's the composition of that committee.

MR.HECK: Well I don't have my list with me at the moment.....

Plaintiff's Exhibit 105A.

February 1, 1972

CHAIRMAN GARDNER: I don't care who they are .....

TWO PEOPLE SPEAKING

MR.HECK: .....but I do have, I think I've stated befo , we asked that 6 representatives be sent to us from the School Community Advisory Committee, as you know, is a cross section of people throughout the City of Buffalo, we had to accept there. We have an additional 4 individuals from the community at large who might be classified as community leaders or representatives and the rest of those individuals on this,-approximately 20 member Advisory Committee consists of teachers and school administrators. Now we have resource personnel too which would include our, -- I guess you don't want to identify the people -- people who are with the central office staff, principals in schools and a gang of people who are working in the community.

CHAIRMAN GARDNER: And as I told you the other evening, when your report is finished, they should all be listed not only by name but by affiliation.

MR. HECK: Right.

DR. MANCH: The reason why this question is important, the Commissioner in his recommendation suggested the Superintendent form a committee. This is not that committee. This is a committee that you have-that you've selected .....

MR.HECK: That's right.

DR. MANCH: This has not been officially designated committee. It becomes important too in view of a memorandum which Mr. Testa just handed me for the School Community Advisory Committee in it's meeting yesterday, this is dated January 20th, 1972, unanimously passed the following resolution that the committee asked me to present to you and the Board today at your conference meeting and asked that we address ourselves toit in some way. The request is a draft of the cross bussing study to the Board of Education and the School Community Advisory Committee simultaneously. It is also requested the Board will not place the cross bussing study on a particular agenda until the School Community Advisory Committee has reviewed the study and made its input. The Committee would then make its recommendations to the Board in a conference meeting with no less than 2 weeks after receiving the draft. I think this was taken up once informally and it was pointed out that if several members of this

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Community Advisory Committee are on this, on Mr. Heck's committee, is that right?

CHAIRMAN GARDNER: Yes, they raised the question, if I recall, at the meeting at Woodlawn also, Reverend Carmichael did, that's right. Well, it would seem to me that as soon as the report is ready it's going to receive, even if it's only a draft report or a study, it may not be a draft study, it's going to receive very wide publicity. There's no desire on anybody's part to treat it otherwise and I'm sure it'll be made public, released to the press and so forth along the way and certainly they should be entitled to have copies of it for their study.

MR.HECK: What the Commissioner recommended Dr. Manch, we have all of the persons on there or groups that he recommended with the exception of students.

DR. MANCH: O.K.

CHAIRMAN GARDNER: All right. Is there any further discussion?

BY DR. GAJEWSKI;

I move we adjourn.

CHAIRMAN GARDNER: Meeting is adjourned.

MEETING ADJOURNED AT 11:10 a.m.

There being no further business to come before the Board, the meeting was adjourned at 11:10 a.m.

The next regular meeting of the Board of Education will be held on Wednesday, February 9, 1972 at 10:00 a.m.

Respectfully submitted,

Florence H. Mazur

Assistant Secretary

Plaintiffs' Exhibit 107.

March 22, 1972

CHAIRMAN GARDNER: Well, are there any other members of the Board who want to be heard? All right, then, I have a few things that I would like to say on this issue.

And some of what Mr. Blaine has said, although I depart with him in good measure, I certainly cannot support Mr. Parlato letter. I like to cast my own vote rather than to have the pape do it for me, but I think in this case, they correctly anticipated that I could not support Mr. Parlato's letter.

From one standpoint what we're talking about today is just an episode in what is undoubtedly a long road from darker days to today and from today to days which I hope will be brighter. I think that bussing has become the issue here and bussing is not really the issue. The issue, as Mr. Blaine has said, is the Kerner Commission's prophesy of a divided society. We began this meeting with the Pledge to the Flag and referred to one nation indivisible and I fear me that I see one nation much divided, and increasingly so.

This Board - how could you really expect this Board to grapple with the moral issues that are involved here, not bussin but the true issues of equality and of movement through society for all peoples when the President of the country defaults so badly in moral leadership.

COMMOTION FROM AUDIENCE

CHAIRMAN GARDNER: The President is a good politician .....

SEVERAL SPEAKING OUT FROM THE AUDIENCE

CHAIRMAN GARDNER: The President -- may I proceed please. The President is a good politican but I fear a poor prophet of what really is basic in the American spirit.

SEVERAL SPEAKING OUT FROM THE AUDIENCE

CHAIRMAN GARDNER: In the American spirit there is more good will and more sincere interest in common good and common improvement than the President would give us credit for having. That's present and that's true in this room, also. People here in this room, are, I believe, are sincerely interest, not just in their own children. I think they are interested in the children of the minority community as well. That come through today and I belie it's true in large part. But there's a malaise of American

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spirit that's all about us.....

IN AUDIENCE SPEAKING OUT

AIRMAN GARDNER: This Board, this Board, I must say in fairness, has never grappled with Commissioner Nyquist's letter. From the day that the letter came in every attempt to discuss it from the standpoint of what could be done rather than what could not be done met with -- to say, opposition is inadequate -- met with utter rejection. We had a series of meetings - I think some of this history should be in the record. It seems to some of us that the Board has a responsibility. If indeed this community is not prepared for bussing of children in the fall of this year, as Commissioner Nyquist anticipated, there must be something. There must have been some area into which this community could have gone to demonstrate visibly that it had not abandoned the goals of equal opportunity and the goals of making this one society. And that didn't necessarily have to be bussing. And it didn t necessarily have to be any particular thing. But when we met as a Board, when we tried to move beyond the area of platitudes and just unctuous statements, there was no progress and there was total opposition and I regret that.

MOTION FROM AUDIENCE

AIRMAN GARDNER: Now, a majority .....

ERAL PEOPLE SPEAKING OUT FROM THE AUDIENCE

AIRMAN GARDNER: A majority can always impose its will on a minority There's nothing special about that.

OTION FROM AUDIENCE

AN GARDNER: But the value of a society and its ideals is dependent in large part, it seems to me, upon the ways the majority exercises that power, with respect and concern for the rights of the minority uffalo is not so different from most American cities. It's not o different from -- and I think the people of Buffalo are basically od people and they want the same thing for their children that her people in other cities want. I find it impossible to lieve that progress has been made, whether by bussing or other s, that progress has been made in so many other cities, many them northern, with .....

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SEVERAL PEOPLE SPEAKING OUT FROM THE AUDIENCE

CHAIRMAN GARDNER: Employing means and community education and operation that are impossible here in Buffalo. I think t citizens of Buffalo are sold short and treated meanly ind by Mr. Parlato's letter.

COMMOTION FROM AUDIENCE

CHAIRMAN GARDNER: May I -- may I please proceed.

MR. MURPHY: Quiet. As Vice President of the Board would you p keep quiet and let Mr. Gardner finish his statement. He's b patient in listening to you all morning because you expresse one point of view, he's expressing another point of view. H be courteous and let him continue without interruption.

APPLAUSE FROM AUDIENCE

CHAIRMAN GARDNER: Thank you Joe, thank you very much.

Now, it would be a very much easier world for a lot of people and for Board Members if the Supreme Court hadn't hand down the Brown Case and the cases that followed. But the Sup Court did hand them down and they are the law of the land and the Federal Courts operate in this field so long as our Presi and our Congress allow them to discharge the duties they've h for 190 years in this country - 180 years in this country, an so I turn briefly to something I think should be in the recor

We debate on the Board sometimes with respect to questio of de facto and de jury segregation. It's been commonly ass that Buffalo, as with most nothern cities, offers an illustra of de facto segregation. I'm not sure I agree with that at a I think that we, for many years, tolerated by indifference an by custom what the Courts, I think, someday will treat as de jury segregation. Certainly, it's true in the districting of Woodlawn Junior High School carefully selected for the Black Community. Certainly it's true in the permission that we gi to students such as those white students who tend to attend, live rather, in the East High School district, giving them t opportunity to study Polish and thereby go to other schools, other languages. Certainly the same thing is present in the existance of school -- in the existance of School 16, an all

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school in substantially an all white neighborhood and other districting, and option districts that we've established. Certainly the same thing is true in large part in the establishment of those standards that we find somewhat embarassing in which, thank goodness, we're moving away from but which we tolerated to date, in the vocational and technical school admissions policies of this Board. Certainly it's true in the failure of the Common Council of the City of Buffalo to provide money to implement the Middle School Program for all these years. Certainly it's true in the failure of the Common Council to provide money to the Bishop Ryan High School because of the fear of what it would do racially. Certainly it's true in the historical portable classroom controversy, and a variety of other things. The day will come, I believe, when all those things, and others that this Board does and does not do, will be considered State action, de jury segregation in violation of a constitution.

I hear it said sometimes, by a variety of people, that the Board in it's race balance policies is the racist. That what we should do is we should adopt a theory of racial neutrality, let everybody be treated equally, whether black or white, and stand on his own merits. A fine sentiment, but as somebody read earlier from Justice Burger, Chief Justice Burger, the strict constructionist, it's fine to be neutral with people who have equal attainment and opportunity but it's quite another thing to put people in different positions, to put people in a status where competition, where striving, where achievement has been made so much more difficult for them and then say now compete, now we'll be neutral.

Our compensatory education programs in the Buffalo Public Schools are fine but they won't do it, they won't solve the problem of making this one society. They may make the schools separate and equal, or separate and more equal, or separate but better, but that doesn't respond to the American system and the American dream. And neither does what we will do today.

Is it all worth it? That's been discussed very much, is it worth it, is it worth lacerating ourselves in the community in this fashion? Well I don't know when anything was ever very easy that was worth while. I don't know when anything that we fought hard to get at any stage of the fight could be said to be worth it. And what we're talking about fighting for isn't bussing, it isn't moving neighborhood children to non-neighborhood schools .....

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COMMOTION FROM AUDIENCE

CHAIRMAN GARDNER: .....because truly -- because truly bussi. not a desirable goal. And when you talk about bussing, an say we need neighborhood schools, then the opponents say, a but the answer isn't in the schools, it's in housing. If only had open housing we could accomplish these things.

COMMOTION FROM AUDIENCE

CHAIRMAN GARDNER: And then when one -- and then when one talks o open housing, the same opponents of the bussing move over an contest that. And then they say to you, it's not housing, it jobs.

MAN IN AUDIENCE: It's you, it's you.

COMMOTION FROM AUDIENCE

CHAIRMAN GARDNER: And then we hear -- and then we hear the same nay- sayers on that.

Well in any event this issue will not rest with whatever we do today. I don't know if we're going to end up in the cou as I've prophesized, and others had said before. I think ....

COMMOTION FROM AUDIENCE

CHAIRMAN GARDNER: I think very likely - I think very likely we wil The world isn't going to rise or fall on what we do today and the issue won't end; the battle will be renewed.

COMMOTION FROM AUDIENCE

CHAIRMAN GARDNER: But there is one thing - no, there is one thing further that must be said, and that is this, and I must say tha I thought the people from Build put it very well.

COMMOTION FROM AUDIENCE

CHAIRMAN GARDNER: We do some things well, and we do many things les well or badly. But the one thing that we don't have the right in any good conscience, to do is to say to the black citizens of this community, we are going to maintain the present separa

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but equal system; we are not going to move ahead to bring you into the mainstream of balance in this City and at the same time we're going to tell you how to run, and we will run for you, those schools to which we say your children must continue to attend.

COMMOTION FROM AUDIENCE

CHAIRMAN GARDNER: And so I -- and so I, as the papers have prophesized, I am going to file, I don't know if anybody wants to join with me, I am going to file a minority statement with the Commissioner of Education. And I am going to suggest to him in that that a decentralization program be employed, developed for the City of Buffalo at the earliest possible date.

MAN IN AUDIENCE: For your children too.

COMMOTION FROM AUDIENCE

CHAIRMAN GARDNER: I think -- well.....

COMMOTION FROM AUDIENCE

DR. MANCH: You are giving a very bad example to the children of our City, I mean that. Will you please allow the speaker to finish. You've all had an opportunity.

CHAIRMAN GARDNER: The one thing I want to .....

SEVERAL PEOPLE SPEAKING FROM THE AUDIENCE

CHAIRMAN GARDNER: The one thing I'm going to say .....

PEOPLE SPEAKING FROM AUDIENCE

CHAIRMAN GARDNER: The one thing I'm going to say, which I know you'll all agree is that I've talked too long.

MAN IN AUDIENCE SPEAKING OUT

CHAIRMAN GARDNER: But I do appreciate the courtesy. A few people have spoken, have hollered out at me, that's O.K. I do appreciate the courtesy that most of the audience gave to me while I said some of the things, not all of the things, but some of the things that I have on my mind. I think this is an audience really of

good people, I think it's an audience of seriously concern people. I hope it's an audience that will continue to dem as they have today, their concern for public education in as they have not, as they have not before on many occasion the Board has implored their participation in things of gr concern for the schools. But I .....

MAN IN AUDIENCE SPEAKING OUT

CHAIRMAN GARDNER: But I also think, I, also, think the day will when we'll look back and we'll consider this a bad episode a when we'll move on again with the main business of this coun which is progress and equality for all of its citizens.

APPLAUSE FROM AUDIENCE

CHAIRMAN GARDNER: Mr. Parlato.

MR. PARLATO: I've not said anything on the motion except to read What I'm going to say now are personal remarks as a single Boa Member, not in any sense intended to invite either argreement or disagreement by a vote on the motion itself.

Mr. Gardner has expressed a point of view and I want to address myself to the point of view rather than to him. That point of view is quite nicely stated if one assumes it is corr then proceeds to assume that there is no distinction between d facto segregation or de jury segregation in the City of Buffal Or if he assumes that there is no real difference in the City of Buffalo and those schools in the south which were permitte to address themselves in argument to the Supreme Court, the Supreme Court which, when that decision was made, everyone rec that there was no purpose in the New York State Attorney Gener addressing itself to that Supreme Court because everyone knew that the issue before that United States Supreme Court 1954 w mute when it came to the City of Buffalo and the State of New York, communities which had not exercised the separate but eq options offered by constitutional law of that said time.

When it comes to the Supreme Court, I just recognized a old addage of law, "everyone is entitled to his day in court", and until Buffalo has its day in court, I am fair and confide in maintaining my position that we in the City of Buffalo, unt we started using race as a basis for pupil assignment, were u holding the best constitutional thinking and principles. I d have to disparage the motives of those who disparage mine. I

say that I think the point of view voiced here is really sincere intended, but in error twice fold for its statement and for its unnecessary inclusion of judging everyone, every antibussing opponent, as just being against the racial consequences.

The Woodlawn Junior High School decision was mentioned. I've said before beauty can exist in the eyes of the beholder, and so can evil. And once the specific evil so, so obviously, namely, racial discrimination, can't exist in the eye of the beholder. Everything done on this earth, by our Creator, can be characterized in terms of race. Everything done, every decision made, can be said to be effecting, for better or for worse, a white or a black or some balanced group. That's the basis for the whole error.

The Kerner Report was mentioned and I say this, that the race plans typified by the Heck Plan, the letters such as issue by Commissioner Nyquist, the entire rationale as expressed here today by the desenters has already statistically divided this nation, keeps it conceptually separated. You can have armed camps, one on one side of the nation, one on the other, or you can have those armed separate forces mixed so deliberately that as I say, that conceptual separation is what we have to get rid of. And this is exactly what I'm fighting.

APPLAUSE FROM AUDIENCE

CHAIRMAN GARDNER: Are there any further comments by Members of the Board?

MR. MURPHY: Roll call vote.

CHAIRMAN GARDNER: Roll call vote.

MR. BLAINE: Roll call vote.

CHAIRMAN GARDNER: Wait just a moment. I beg your pardon. Excuse me, Dr. Manch, I forget, I beg your pardon.

DR. MANCH: There is one thing you must understand, I am never appa or frightened or held back by people who react the way you jus did. That makes me even more determined to say what I have to say.

CHAIRMAN GARDNER: Dr. Manch you'll have a courteous audience, so please go ahead.

Plaintiffs' Exhibit 107.

DR. MANCH: I'm sure I will. And I merely want to make a few ver brief comments. When we met with Commissioner Nyquist on Fe 21, the Members of the Board of Education and certain member of the staff who were present may remember that I said to th Commissioner in an attempt to summarize the discussion somet like this: I think I said, you can see Mr. Commissioner that we have a divided Board on this critical matter and this repr a divided community. It is my hope that, dispite this divisi we can agree to unite on a proposal which will move us forwa and in which the community can unite so that in the best int of all of our children we can make some further progress in developing programs of quality integrated education. This is the order we have, to develop more programs of quality integr education. I'm afraid we're not ready to do much about that. I think it's really pretty obvious. I don't doubt the sincerit of anyone who spoke today. I'm a little concerned about the fact that not all the information which you should have about w has happened, you have. For example, in my own case, I have ma no recommendations up to this point on the report of Mr. Heck or on cross-bussing. As a matter of fact the only program we have going now is a voluntary program. I am interested in movi ahead. I'm trying to do, trying to recommend what is feasible, what is possible for one reason, because I am concerned about the part of predictions made in the Kerner Report. I don't recall what the date of the Kerner Report was but for myself, in 1967, I remember I made a statement about the walls that were being developed in our communities, I don't think that's the American ideal. And what we have to do is to work together to find out how we break down the walls and work together. Right now the pressure is on the schools to do it because it hasn't been done in our society. We can go into details about the hou problem and so on but that won't bring any particular progress at this time. But it's a problem we are going to have to addre ourselves to. But it is clear, at this point, we're not prepare to do it, and it's a challenge to all of us. I'm not recommending the letter that was presented not because I think a better answer can be given at this time that would be accepted but because I think we need to continue working on this proble to see what gains we can make.

I did go to a lot of meetings. I'm sorry I couldn't atte them all, I'm only one human being. And I went last night to a meeting at McKinley.

PEOPLE SPEAKING IN AUDIENCE

Plaintiffs' Exhibit 107.

March 22, 1972

MANCH: Just a moment. And I was a little disappointed to see that it was a kind of a one-sided affair just as apparently today it's rather one-sided except for statements made by Build. I think what we need to do, and I say this in all sincerity, is not to wait until there's a crisis to get together and meet and talk things over so we can arrive at something we can all accept. Thank you very much.

PPLAUSE FROM AUDIENCE

ECRETARY: Dr. Blackman.

HAIRMAN GARDNER: Wait just a minute.

R. BLACKMAN	NO
R. BLAINE	NO
R. GAJEWSKI	AYE
R. MURPHY	AYE
R. PARLATO	AYE
RS. WILLIAMS	AYE
R. GARDNER	NO

AYES: 4
NOES: 3

CHAIRMAN GARDNER: The matter carries 4 to 3.

APPLAUSE FROM AUDIENCE

HAIRMAN GARDNER: Ladies and gentlemen please, the meeting is not over, please. Dr. Gajewski.

DR. GAJEWSKI:

I move that the staff report entitled "A Study of Desegregation" dated February 21, 1972, prepared by the Advisory Planning Council on Desegregation, James R. Heck, Chairman, commonly referred to as the Heck Report, be received and filed.

LAUSE FROM AUDIENCE

Plaintiffs' Exhibit 108.

BOARD OF EDUCATION - CITY OF BUFFALO

INTEROFFICE MEMORANDUM

Date March 23, 1972

SUBJECT: Desegregation Study

TO: Dr. Joseph Manch, Superintendent of Schools

FROM: Florence H. Mazur

The Board of Education, at a meeting held on March 22, 1972 approved a motion to submit a letter to Commissioner Nyquist informing him of the Board's inability to produce a plan for desegregation of the Buffalo Public Schools on April 1, 1972, as requested. Copy of letter is attached.

Florence H. Mazur
Assistant Secretary

cc: Mr. Clapp
Mr. Gdula

PLAINTIFF'S EXHIBIT 108 CV-72-325

Plaintiffs' Exhibit 108.

JOSEPH MANCH
Superintendent of Schools

HENRY J. GDULA
Secretary to the Board

BOARD OF EDUCATION
City Hall
Buffalo, New York – 14202

BOARD MEMBERS

ARNOLD B. GARDNER, *President*
JOSEPH E. MURPHY, *Vice President*
DR. GEORGE E. BLACKMAN
DR. MATT A. GAJEWSKI
ANTHONY J. NITKOWSKI
CARMELO A. PARLATO
CHARLES G. BLAINE

March 23, 1972

Ewald B. Nyquist, Commissioner of Education
State Education Department
Albany, New York 12224

Re: Racial Imbalance

Dear Commissioner Nyquist:

Since the 1963 statement by the Board of Regents on the subject of racial imbalance in the schools, the Buffalo Board of Education, by a variety of policy revisions, has established race as a basis of pupil placement, as part of an attempt affirmatively to produce a racial balance in our various schools. That attempt has been limited by Board recognition that other pupil placement considerations, of long standing value, must necessarily be affected by the use of race as a criterion for pupil placement. Indeed, there has been substantial division of opinion among Board members as to whether such use of race, albeit for mixture of the races rather than for their separation, has already excessively affected other pupil placement considerations.

Your letter of January 20, 1972, to Arnold B. Gardner, President of this Board, expressed a lack of satisfaction with this Board's progress toward the racial balance referred to above. On the other hand, by various communications from your office and staff, over the past several years, including your personal comments made in Buffalo on February 21, 1972, you have clearly shown that the matter of pupil placement, other than in respect to race, is recognized by your office to be within the special knowledgeability of local boards of education.

Plaintiffs' Exhibit 108.

We regret to advise you that we are unable, consistent with our responsibilities as we see them, to submit any plan to you by which, within the period of time you apparently have in mind, " *** every school would substantially reflect the racial composition of the entire district. *** "

We assure you that our inability to produce a plan such as you have requested is based upon our concern for pupil placement considerations which transcend racial distinctions and, conversely, is not from any desire, much less any attempt, affirmatively to avoid or prevent a mixture of the various races among our pupils.

We trust that you will accept our position, insofar as it may disappoint you, not as a challenge to your authority, but as an honest and firm resolve to accomplish what we are confident are the ultimate educational objectives we share with you.

Very truly yours,

BUFFALO BOARD OF EDUCATION

Henry J. Gdula
Secretary to the Board

The motion directing the Board Secretary to sign the above letter was approved by a 4 to 3 vote.
The following members voted in the affirmative and in the negative as indicated.

AYES:

Joseph E. Murphy
Dr. Matt A. Gajewski
Mrs. Carol E. Williams
Carmelo A. Parlato

NOES:

Arnold B. Gardner, President
Dr. George E. Blackman
Charles G. Blaine

1486
Plaintiffs' Exhibit 109.

The University of the State of New York
The State Education Department
Albany, New York 12224

Office of the Commissioner
of Education

Tuesday
March 28
19 72

Mr. Henry J. Gdula
Secretary to the Board
Board of Education
City Hall
Buffalo, New York 14202

Dear Mr. Gdula:

This will acknowledge receipt of your letter on behalf of the Board of Education of Buffalo, dated March 23. I have advised the President of the Board that I am conferring with my staff on the next steps to be taken.

Faithfully yours,

Ewald B. Nyquist

cc: Mr. Gardner

RECEIVED
MAR 30 1972.
SECRETARY'S OFFICE

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Plaintiffs' Exhibit 110.

BOARD OF EDUCATION
City Hall
Buffalo, New York 14202

JOSEPH MANCH
Superintendent of Schools

ARNOLD P. GARDNER
President

March 29, 1972

PLAINTIFF'S EXHIBIT 110
NoCV-72-325

Hon. Ewald B. Nyquist
Commissioner of Education
State Education Department
Albany, New York

Dear Commissioner Nyquist:

On January 20, 1972 you wrote to this Board of Education and directed that we submit to you "by April 1, 1972, a desegregation plan for the schools of the Buffalo Public School System under which every school would substantially reflect the racial composition of the entire district".

There can be no mistaking the fact that your letter constituted a mandate or order to this Board and not a mere request. You were courteous enough to use polite language, but all members of our Board, and the citizens of this community, properly understood the intent of your letter to be one of direction and not mere suggestion.

As you are aware, at our regular Board meeting on March 22, 1972 this Board adopted various resolutions the effect of which was to reject in entirety your January 20 letter.

The Board action on March 22 came by a 4 - 3 vote after a lengthy meeting which was called "tumultuous" by the New York Times.

I am enclosing with this letter a copy of the transcript of our meeting which I think will speak for itself, although it has not yet been approved by the Board and is a bit garbled.

As you know, I was included in the 3-member minority which voted against rejecting your letter. I indicated at the time of the meeting that I intended to file a minority report with you. This letter is that report.

Plaintiffs' Exhibit 110.

After receipt of your letter this Board devoted many hours of discussion to the problems which you outlined. You are aware of this of course since you visited with us on February 21. However, while we spent a good deal of time talking about your letter and the problems arising from racial imbalance in the Buffalo public schools, the Board never grappled with the issues raised by your letter.

At each of our meetings we exchanged pious platitudes on the need for racial understanding and for equal educational opportunities for all. But as soon as we attempted to go beyond that useful discussion ended. All dialogue then centered around the code word "bussing", and our discussions were restricted to the many "realistic" reasons why nothing could be done at this time to move ahead with our long dormant desegregation efforts.

Consequently, all attempts to reach some common ground failed. We were unable or unwilling to consider what could, should or might be done at this time, but instead were caught up in community fears and tensions. I believe that the Board utterly failed to exert moral leadership in this area.

I suppose this is not surprising. How can a local Board of Education be expected to exert moral leadership when the President of the country has failed so badly in this regard. Our local politicians have been even worse, as you well know. For cynical reasons and personal advantage many of them have exploited the fears that undoubtedly exist in this community. They have made difficult if not impossible any intelligent discussion of the basic problem which is before us, namely the avoidance of a divided society, not merely the transportation of students.

What is even more disheartening is the fact that so many liberal thinkers in this community, and elsewhere, have also abandoned their resolve and are now unwilling to urge that which we and they know is right merely because it has become more difficult to do what is right.

Plaintiffs' Exhibit 110.

The members who voted in minority at the March 22 meeting proposed a series of compromises to the majority members of the Board. All were rejected and none were even seriously considered.

The proposed compromises accepted the view that Buffalo is not ready to embark in the Fall of 1972 upon a program which would provide a race balance in every school substantially the same as that of the total district.

It is clear that any significant change in the racial balance of our schools at this time must involve transportation of pupils to non-neighborhood schools. The overwhelming majority of the citizens of Buffalo oppose this. They do so with varying degrees of vehemence but with almost unanimous firmness of purpose.

This community has not as yet been sufficiently informed, educated or otherwise prepared for the type of program which would be required in order to comply fully with the directives in your letter. In those cities where massive desegregation bussing programs have been undertaken they have followed years of dispute and/or litigation during which the community has in effect been prepared for the program that was to follow. In other cities there has been a better climate or more time for human relations education and other preparation for such a program.

Those situations do not apply in Buffalo. As you well know, it has been some years since any serious efforts have been made locally to move ahead with school desegregation. Nor did your office take any measures to require increased desegregation efforts until your January 20 letter. I also call your attention to the retarding effect of the State's anti-bussing law which was declared unconstitutional only in 1971.

Given the state of community fear and apprehension, and the efforts of politicians to interfere with orderly

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consideration of the issue, it would probably never have been possible for us to comply with your letter by the Fall of this year. Undoubtedly however we could have done a great deal better than the majority did at last week's Board meeting. I deeply regret that progress in achieving racial understanding has been so seriously stifled, and in fact reversed by local events.

It seems to me that what parents want, and are entitled to know about any desegregation plan are two things: that it will not make their children less safe on their way to, from and while in school, and that their children will receive a good education in their assigned schools. If we can convince parents that such will be the case, then I think we may have a very different public reaction to racial desegregation, even including bussing, from that which demonstrated itself at last Wednesday's meeting. We must work in this direction during the coming months.

However, for your information, the compromise which was proposed to the majority Board members, and rejected, included the following elements:

1. That this Board renew its commitment to the goal of achieving quality integrated education in the Buffalo public schools.

2. That this Board request an extension of your April 1, 1972 deadline as follows: not later than the month of January, 1973 we would have submitted to your office a comprehensive plan for desegregation of the Buffalo public schools over a limited number of years commencing with the 1973-1974 school year. The time between now and the Fall of 1973 would have been used not only to develop such a comprehensive plan, but also to attempt community education and preparation for its implementation.

3. That in the school year 1972-1973 this Board continue, and hopefully expand the present voluntary bussing program

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under which approximately 3700 inner-city students are transported to peripheral schools; that during such year this Board establish in the inner-city area a so-called "magnet school", probably a middle school, at which special progress courses and instruction could be offered. Such a magnet school might have attracted, on a voluntary bussing basis, a racially balanced student population from all parts of the City.

4. That this Board submit to the Mayor and Common Council of the City of Buffalo an emergency capital budget request for money with which existing buildings could have been converted to middle school purposes, implementing the 4-4-4 plan, for operation at the earliest possible date, hopefully during the 1972-1973 school year.

Unfortunately, as I have said, this compromise proposal was firmly rejected by the majority.

Thus, pending further action by you, this City will be left with serious de facto segregation of its public schools. At the meeting on March 22 I urged however, and I submit to you that what is thought to be de facto segregation may well be de jure segregation. In this regard I refer to the following circumstances:

1. The districting of Woodlawn Junior High School, contrived only a few years ago so as to make that school all black.

2. The device of allowing students to transfer from the East High School district to South Park High School in order to take Polish, a subject conveniently not offered at all black East High School.

3. The existence of School 16 as a substantially all black school in a substantially all white neighborhood.

4. Other districting patterns, including the establishment of so-called optional districts which allow white children to escape the black schools to which they would otherwise be assigned.

Plaintiffs' Exhibit 110.

5. The discriminatory pattern of vocational and technical school admissions, improved only slightly in recent months.

6. The failure of the City to provide money for middle school conversions or construction so as to implement the 4-4-4 plan, and the failure of the City to provide funds for the acquisition or lease of Bishop Ryan High School in South Buffalo because of the anticipated racial balance of the student body if a school were operated at that location.

Dr. Manch shares my concern with these practices and has sought in the past to eliminate them. Hopefully we will achieve some progress in the future, but the fact remains that the above aspects of de jure segregation have existed and still exist in the Buffalo Public School System.

Finally, I should call your attention to the remarks made by the BUILD organization at our Board meeting on March 22. BUILD is a black community organization with which we operate the so-called "BUILD Academy", a K-6 school which has been an interesting experimental program. I have some disagreement with the BUILD organization since it has a separatist philosophy. I believe that this country must not follow the example of South Africa or Northern Ireland. However, at the Board meeting the representatives of BUILD raised what to me are very serious questions. In effect they said that if the children of the black community are not to be educated in all of the schools of the total community, then a greater degree of autonomy-decentralization-if you will-should be granted to the local community for the management of those schools within the inner-city. Frankly, I do not see how we can have it both ways; not let the black community enter the larger city and at the same time not let them do more things in their own way for themselves. Accordingly, in the coming months, unless you or we find some way for us to move forward again with the desegregation of our schools, I intend to seek reactivation of

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Hon. Ewald B. Nyquist

March 29, 1972
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the decentralization or school reorganization study which Dr. Manch initiated some time ago and which he has unsuccessfully sought to have the Board pursue. Community control is no more of a panacea than is bussing, and it might well tend towards separatism, but at least it would spare us the humiliation of continuing our present hypocrisy. At least it should be explored seriously.

This is my minority report Mr. Commissioner. Having been unable or unwilling to furnish the leadership to which this community is entitled, this Board, including its reluctant majority, can only look to you for that leadership.

I look forward to your response.

Sincerely yours,

Arnold B. Gardner.

ABG:i
Encl.

Plaintiffs' Exhibit 111.

BOARD OF EDUCATION - CITY OF BUFFALO

INTEROFFICE MEMORANDUM

Date March 28, 1972

SUBJECT Board Action

TO Dr. Joseph Manch, Superintendent of Schools

FROM Florence H. Mazur

The Board of Education, at a regular meeting held March 22, 1972, approved the following motions:

Approved to Receive and File the Staff Report, entitled "A Study of Desegregation" dated February 21, 1972 which was prepared by the Advisory Planning Council on Desegregation, and commonly referred to as the Heck Report.

Approved that the Board, as presently constituted, be opposed to any form of forced bussing.

Florence H. Mazur
Assistant Secretary

cc: Mr. Clapp
Mr. Heck

Plaintiffs' Exhibit 112.

Dr. Arnold D. [illegible]
President
Board of Education
City Hall
Buffalo, New York [illegible]

Dear Dr. [illegible]:

My staff and I [illegible] of Buffalo's plan of [illegible] and urban education [illegible] of the Buffalo public [illegible] appreciate that [illegible] and to [illegible] of producing a plan [illegible].

[illegible] from the United States Constitution [illegible] complied with [illegible] to make [illegible] assignment of the Board [illegible] the [illegible] and that the Board's [illegible] assignment [illegible] and/or pre-[illegible]

Despite these [illegible] it is clear that a [illegible] and substantial need to make [illegible] assignment practices which [illegible] the severe [illegible] problem evident in the present attendance pattern [illegible] the Buffalo public schools. [illegible] directing a program of [illegible] to work with appropriate [illegible] of the Buffalo public school system to develop an appropriate desegregation plan for the schools of the City of Buffalo. I know my staff can be helpful to the Board and the officials of the appropriate court in this undertaking.

I have directed [illegible] to contact Superintendent Manch[illegible] that we may [illegible] these activities at the earliest possible time.

Faithfully [illegible],

[illegible]

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THE STATE EDUCATION DEPARTMENT

May 15, 1972

Dr. Joseph [illegible]
Superintendent of Schools
Room 712
City Hall
Buffalo, New York 14202

Dear Joe:

Just a brief note to advise you of the steps we have taken to initiate a study of the school integration situation in Buffalo. Ted Grenda, who is responsible for the local phases of that study will contact you sometime this week. He is planning to arrive in Buffalo, Monday, May 22 with a small team of State Education Department personnel.

The size of the on-site team in Buffalo will be increased in days following this visit to a level which will permit them to complete their analysis and deliver a preliminary report to me by June 15th. I know that you and your staff will help make our staff members welcome. Also, I know you will use your good offices to facilitate their work. Both Commissioner Nyquist and I are grateful for the cooperation you and the Buffalo Board of Education have extended us in this important work.

Sincerely yours,

Thomas D. Sheldon

TDS:lee

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MR. EASLEY:--... and this we are going to have. We are going to send our children three and four miles the same as in the past because we feel that the Board of Education knows what they are doing. They zone the schools. That is why I say these people - they will integrate these schools, especially Woodlawn Junior High School. If they are not going to integrate Woodlawn Junior High School, why did they built it there? If they are not going to integrate it, they might as well sell it to Jones-Rich Dairy which is right across the street.

CHAIRMAN RUBINO:--Mrs. Joseph Mattina, representing School 56. ... The Board insists that we have an orderly and courteous meeting.

MRS. JOSEPH MATTINA:--Mr. Chairman, members of the Board, civil liberties is not the privilege of a few, but the right of all people in the United States. Reference is made to the New York State decree that no man shall be deprived of education because of race, color, or creed - no color, no race, or no creed. The idea that one child is deprived of education because of his color, that idea was discrimination. This I say, and this the courts of New York have said, in Long Island, in Balaban vs People of New York. How dare the schools of Buffalo count my child or Dr. Wright's child as a percentage of white children or of Negro children? The difference between a totalitarian state and a democracy is that in a totalitarian state the fate of the many are determined by the few. In a democracy, the citizenry works within the law. The courts of New York State will .... set a precedent to deal with this problem .... members of the Board who may claim that the State aid will be denied ... but we have been talking to and against the prejudice side ... we are not ignorant ... if we are to believe that, then we are ignorant ... the courts of New York are ..... our fate will indeed be determined by the few and we are not working within the law .... in the last few decades we have been ..... in the name of humanity the individual must be sacrificed - I say when the individual is sacrificed, there is no humanity.

CHAIRMAN RUBINO:--Mr. Joseph Re, School 56.

MR. JOSEPH RE: Mr. President, Dr. Manch, members of the Board, I am speaking on behalf of all the parents of School 56. We are opposed to the distance involved, the time element going and coming, and also the time element with the children who might be forced to stay after school. I too question the legality of this counting heads, saying so many whites must go here, so many Negroes must go here, so many Puerto Ricans, Italians, and Irish must go here or go there. This country is not built on this, and our laws forbid it.

I also have a note that Mr. Caldwell, of the State Parole Board, opposed the building of that school

Plaintiff's Exhibit 122.

in that area. He is a Negro who was appointed to the Parole Board. That man knew what he was doing, but I think the City built the school there, right there at that location. They have ... I don't know whether the property was owned by the City or whether it was individually owned. That is immaterial. They went ahead and built the school without even asking the people if they wanted the school there; they went ahead with a junior high school to be built there.

I do not like to be badgered because if we are badgered, we can badger back. We can go to the Supreme Court of the United States. I do hope you will ..... a few cases appeared in New York City .... they tried this in New York City where so many whites and so many Negroes and so many Puerto Ricans are to go to this school and that school, and the Supreme Court said it was wrong to discriminate against race, color, or creed, and we stand on the Supreme Court decision. Thank you.

CHAIRMAN RUBINO:--Mrs. Bernice Rosen, School 56.

MRS. BERNICE ROSEN:--I would like to tell you .. Mr. Re said he spoke for all the parents of School 56. He did not speak for me. This is the minority opinion I would like to speak about. I would like to speak out in favor of Dr. Lydia Wright's proposal. This is the only plan which will make Woodlawn a truly integrated school. At an extremely heated meeting of the parents at School 56 yesterday, most of the parents tried to keep the issue of integration out of discussions, claiming they wished to discuss the distance that their children will travel, and the safety. On the question of distance, first, the inconvenience of the location of the school is a minor one compared to the hardships suffered by Negro children who attend inferior schools every day. These are not kindergarten children who will be making this walk, but seventh, eighth and ninth graders.My daughter walked a mile and a half to school every day last year and seemed to have survived it quite successfully. Secondly, there are many white children who walk just as far to avoid going to School 17, a predominantly Negro school closer to them. May I suggest that the Board of Education might be able to reimburse them for bus transportation. If safety is truly a factor, then I think we must take whatever precautions are necessary to protect our small children. No one at the meeting yesterday spoke of the quality of education. The children are being deprived of having both Negro as well as white friends. This is sure preparation for living in a world where they must live with the people, with both Negroes and white. The time to learn that is now.

CHAIRMAN RUBINO:--Mr. George Robinson, School 56, please.

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MR. GEORGE ROBINSON:--We came down here as parents. We are not members of any organization. We don't have any initials. School 56 didn't have a chief speaker.

I pay taxes on Delavan Avenue. I bought a house three doors from the school; I have six kids; I didn't want them to go across town. They go to Cathedral School for religious instruction, that is all right, they are supposed to do that. My kids are now supposed to go to a Negro school three buses away - they want to tell me .... I have two kids going to school in the kindergarten .... I don't want my kids at eight o'clock in the morning standing waiting for the bus. I ought a house four doors from the school for them - I don't want them to go cross town. We are not worried about color or anything - we don't want them to go all that way - that is the only reason. I don't want them coming home at that hour so my point is, from School No. 56, why should my kids have to go down there? And don't you guys get .... and charge us more taxes - no segregation - no integration - no nothing.

CHAIRMAN RUBINO:--We are down to the end - two more speakers and then we will come to the official session of the Board. Let's continue on with the hearing. The next gentleman who wants to be heard is Donald Jackson.

MR. DONALD JACKSON:--When Woodlawn Junior High School was being constructed ..... it was known by one of our leaders, Mrs. Cora P. Maloney, when the school was being constructed that it was being constructed in a Negro neighborhood. It is probably one of the best schools being built. That is beside the point. Now we find, as we live two and a half blocks from the school, from Woodlawn Junior, we will be deprived of the right to go there. People who are advocating this do not know the problems involved. In transporting children a mile and a half across town, why should the children come from one and a half miles across the city when we have children already located closer to a school. I mean, we just bought our home a half a street block away - we tried to buy the home close, near the school for the convenience of the children. When the children grow up they are deprived of the right, not because there is not room, but because they are Negro. This whole school problem that has been brought about is a Communist conspiracy. The young Negro children who prove themselves fit as citizens in the community, when they are leaders, they are not accepted as leaders, but they just have to work their way up through school. People of our community today want to attend the school of their choice. They desire to attend their neighborhood school and anyone who speaks contrary to that as representing Negro people, are speaking for themselves and not for the Negro people.

CHAIRMAN RUBINO:--Mrs. Anthony Gennaro, School 56.

Mrs. Anthony Gennaro, School 56:--I am speaking as a parent with three children going to School 56. I can see no advantage or benefit in the inconvenience and expense of sending our children to the Woodlawn Junior High School. We have facilities, we built a library, they have rooms enough. Quite a few years ago, we put up with the inconvenience of sending our children over to another school during the rehabilitation of this one. They were hammering, painting, and there was plaster dust. Our children had something to gain from this inconvenience ... they will gain nothing from attending the Woodlawn Junior High School. I have been under the impression that the main purpose of the Buffalo Board of Education - our Board of Education, was to provide better education and alleviate overcrowding. I feel that as of now this has become a secondary issue. What happens to the empty space in School 56 without the other children? How were the boundaries for the redistricting arrived at? Were the needs of our children involved, or on a percentage basis? I refuse to have my children used as pawns in the giant checker game you are playing.

CHAIRMAN RUBINO:--Reverend Porter Phillips will probably be the last speaker. Reverend Phillips represents the people in his area.

REVEREND PORTER PHILLIPS:--Mr. Chairman, Members of the Board of Education, Dr. Manch. I want to say first of all that I am very happy I am able to share in a meeting of this kind with people who have different points of view, and who have been able to give a full and complete expression of their varying points of view. This I believe to be a basic and vital part of our American way of life, and I am grateful that we here in Buffalo are able to sit down and talk together about our common concerns. I believe that one of the chief purposes of our public school system is to prepare our children and young people for a full and complete life in our American democracy. At present we can sit here, in particular this morning, while the entire world is falling in on our heads. We are living in a world in which there are all kinds of people, and it behooves each of us to learn how to live with and have respect for all the various kinds of people who inhabit this world. I submit .. I submit to the President, that one of the best ways to learn respect for other people who may be different from ourselves, is to learn how to live with them and to appreciate all they have to offer - is by knowing them.

Our children cannot know each other, Mr. President, if they are sent to separate schools where the only people they know are people who are like themselves. There is a very real value in doing all we possibly can, and doing

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those things that are within reason to provide a setting in which children can get to know other children who are different from themselves. No one is a truly educated person who has not had the privilege of being and knowing and learning a respect for others who may be different from themselves. Let's prepare, Mr. President, our young people for living in the kind of world that this is otherwise we are doing them a great disservice.

I ask this Board, with the support of the citizens of this community, to provide as reasonable a plan as possible to allow our children to known one another and to grow up with a deep and profound respect for all people everywhere.

CHAIRMAN RUBINO:--Well, on behalf of the Board of Education and Dr. Manch, I wish to thank all of you for being with us this morning. We are going to proceed with the regular Board meeting. Certainly, you are welcome to stay and listen to the rest. If not, we will call a five minute recess before our regular order of business.

One moment, Dr. Manch, please.....

DR. MANCH:--What I am going to say now is a matter of concern to all the parents of Buffalo. I have seen some evidence, and others have, recently, of some rather unfortunate effects on children who do not understand these issues, in their behavior in the community. I think you and I know what I am talking about. We have had some reports of children being attacked after certain activities, afternoons and evenings. This happened a few months ago, and I asked the cooperation of the Police Department at that time. I think you and I, each of us, would be very, very sad if we were to develop a kind of situation with a difference of opinion among us, which would be reflected and misunderstood on the part of the children, and which would be harmful to them and all of us.

May I ask you as parents, and through you all the parents of Buffalo, to be sure that children are not used as pawns in this situation; that they are not involved emotionally, but that they go to they go to their schools, participate in school activities as all children of all Americans have a right to do without fear of being molested, attacked, or having their life taken from them in any way. I think only the parents can readily take care of this situation.

You can have policemen around schools after basketball games and other occasions, but what we must develop is an attitude on the part of children which will allow us as adults to settle these problems and allow these children to go on with their education undisturbed.

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You can't learn by misunderstanding. I appeal to the parents of Buffalo in this respect because I can see trouble ahead of us if we don't do this. Thank you very much.

CHAIRMAN RUBINO:--All right, this portion of the Board hearing is adjourned. Those of you who wish to leave are welcome to do so. Those who wish to remain are also welcome.

Preceding portion of minutes recorded by Helen Mary Rick

We will have a five minute recess. Adjourned at 12:10 P.M.

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The Board meting reconvened at 1:00 P. M. in the Board Room at 801 City Hall.

CHAIRMAN RUBINO:--The Chair will entertain a motion to excuse the absence of Mr. Markel from the meeting held February 13. He was excused earlier this morning, along with Mr. Nitkowski, from this meeting, but the record didn't show that he was excused for the 13th also. It is a routine matter.

BY MR. PARLATO

Mr. Chairman, I move that the absence of Mr. Markel from the meeting of February 13, 1964, be excused.

SECONDED--DR. WRIGHT

CHAIRMAN RUBINO:--Mr. Parlato moves approval, seconded by Dr. Wright, all in favor say Aye, contrary None, so ordered.

AYES-ECONOMOU-PARLATO-SLOMINSKI-WRIGHT-RUBINO-5
NOES-NONE
ABSENCE EXCUSED

- - - -

CHAIRMAN RUBINO:--We will now proceed with Dr. Manch. We are going to take our agenda out of context this morning in that some of our members, as you can well appreciate, find it increasingly difficult to take care of their homes, their businesses or professions, and everything else and yet try to do a good job for the schools, so we will try to take last things first in this case because the item before us was under special, so with the permission of the Board, we will permit Dr. Manch to proceed in the order with which we agreed.

DR. MANCH:--I have issued a statement, as is generally known, on the subject of racial integration in the schools.

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It was printed in full in both the Buffalo Evening News and the Buffalo Courier Express. It was a statement that I had discussed with the Board previously. The form in which it appeared in the newspapers was slightly revised from the statement I discussed with the Board because I continued to work on it until the last moment. I feel that for the record it should be read so that it will be a matter of record in the minutes, and at this time I should like to read it.

We can hardly be unaware of the serious school disorders taking place in many of our great cities in the North over the issue of racial integration. Schools find themselves in a difficult position in attempting to deal with the reality of housing patterns which affect the racial composition of the t raditional neighborhood school.

It seems to me appropriate at this time that I, as Superintendent of Schools, make some comments about the situation as I see it in Buffalo.

In the first place, we have no schools in Buffalo segregated by law, regulation, or design. We do have a number of schools in which there are many more white than Negro children, or many more Negro than white children, solely because these children live where they do. We have also many schools which are thoroughly integrated.

We have recently been informed by the State Commissioner of Education, acting on a stated policy of the Board of Regents of the State of New York, that any school district which has schools in "racial imbalance" must proceed to end this condition. (The phrase is a direct quotation.) The Commissioner does not direct how this shall be done, but leaves it to the individual community "to develop and implement the necessary plans." We were further requested by the Commissionerto submit to him, by September 1, 1963, a report of the extent of the problem and plans for dealing with it. We submitted such a report in June, as unanimously approved by the Board of Education.

On November 13, 1963, the Board voted to postpone the implementation of the proposals until September, 1964, in order to give further time for discussion and evaluation of this plan and others which might be recommended.

Now, as we prepare to do this, I should like to review my possition in this matter and make a number of observations and recommendations:

1. I believe that it is desirable, in a pluralistic society like ours, to attempt to reflect in school membership a cross section of the cultural and ethnic background of the community. The Board, in the past, has taken

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action which accomplished this, particularly at Bennett High School, School 16 and School 54. (I say it accomplished this initially.)

2. I would recommend the implementation of the voluntary school transfer policy adopted by the Board in June, with certain modifications, as follows:

(a) The four segments should be eliminated and pupils should be permitted to transfer to schools anywhere in the city where there is available space.

(b) Transfers should be permitted only from those schools, to be designated by the Board, where "racial imbalance" exists (and racial imbalance is in quotation marks, taken from the Commissioner's statement).

(c) Transfers should begin at the fourth grade level.

3. I do not favor providing transportation by the Board of Education, primarily because educational funds are scarce and a dollar spent for transportation can not be spent for more urgent educational needs. However, if the success of any reasonably sound program could be assured by providing transportation, I would urge that serious consideration be given to this possibility with the hope that the State would provide 100 per cent reimbursement. (At the present time the State would provide 90% reimbursement.)

4. I do not recommend any form of mandatory shuttling of children back and forth across the city to achieve an artificial racial balance. In my opinion, this could lead only to educational chaos. Without a complete redistribution of pupils - which I do not recommend - it would be impossible to achieve any meaningful change in racial balance in many schools in predominantly white or Negro residential areas of the city.

5. I would recommend a careful review of several proposals for better utilization of school space, affecting certain schools, as presented to the Board some months ago, and now on the table, along with some others which may be suggested. These are, in a sense, variations of the Princeton Plan. Each of these would result in relieving overcrowding, as well as in an improvement of racial balance. It is to the credit of the Board that one of these original proposals was approved in August, resulting in the transfer of more than one hundred pupils from School 37 to School 76.

(And may I say, as I read 6, if I were rewriting this, I would make 6 number one as I look at the total situation.)

Plaintiff's Exhibit 122.

6. I would emphasize again that high priority be given to an all-out effort to provide those special services which are essential for improved performance of many thousands of children - white and Negro - who are victims of cultural deprivation and low motivation in their environment. This would include help in reading, speech, and other experiences necessary to foster learning. Children, wherever they are in school, must have appropriate help. These pupils should also be taught in small classes by the best teachers available. What we have accomplished through the Ford Foundation Program at School 12 and in the schools to which this program has been extended, gives adequate proof of the value of such services. I feel, furthermore, that the State Education Department should assist materially in providing the funds for this program of enrichment.

(And in connection with that last point, I would like, when I complete the statement, to read another document which just came to my desk from the Commissioner's office which relates to this.

7. I would recommend that thoughtful attention be given to every other reasonable proposal for the achievement of educationally sound programs, with a view toward implementation in September, 1964.

Finally, I would like to say that children should never be used as innocent pawns in the face of honest and sincere efforts to deal with one of the most difficult and complex problems of our time. Certain kinds of overt action by individuals and groups serve largely to confuse the real issues and to alienate thousands of citizens who want to be helpful, but who refused to be intimidated by threats of force.

I do have faith that we, in Buffalo, can make continued progress in the great challenge to provide maximum educational opportunities for all children equal to their needs. For this, we must have the cooperation and good faith of every citizen. In this effort, we cannot afford to fail our children, who look to us for the intelligent and mature decisions of which we are surely capable.

- - -

May I, in addition to that, read into the record a statement made by the Commissioner of Education, Dr. James E. Allen, on the occasion of the meeting of the New York State School Boards Association in Syracuse on October 28, 1963. He delivered an address on state responsibility and local control and at one point he said this, and I read this so that we will have full indication of what the Commissioner has said in this matter.

Plaintiff's Exhibit 122.

May I insert here a few remarks related to the state responsibility to the question of de facto segregation which is so much a part of the crisis of today in education. As a matter of policy, the State Education Department believes de facto segregation to be a detriment to the provision of equal educational opportunity. The Department further fervantly hopes that local authorities will deal with the elimination of de facto segregation, that the responsibility will be accepted at the local level. With their intimate knowledge of all the factors in the local situation, local authorities are best equipped to devise solutions best suited to local needs. Our actions thus far have been intended to alert and inform local authorities of the problem, of the inequities and injustices of racial segregation, and to assist them in their efforts to deal with it, but this is a problem which must be solved. The question of both moral and practical consideration can not be denied. Therefore, if appropriate local action is not forthcoming, if adequate plans are not made and actively pursued by local authorities, the state, in faithfulness to its responsibility, will have no choice but to act to move to fill the vacuum created by inertia or postponement in the exercise of local responsibility.

That the Commissioner said, as I indicated, on October 28, 1963.

Then this morning, my secretary handed me a letter which arrived late yesterday afternoon, and in glancing at it I notice that it is, in the first instance, a letter from the Commissioner of Education to the President and members of the Board of Education and the Superintendent of Schools of the City School District of the City of New York, in which he indicates, as a result of his having been invited to come to New York City to deal with the problem they face there, he is suggesting - directing - that his advisory committee in this area will work with the officials of New York City to devise a plan by May, but in addition to that he enclosed a letter addressed to the Hon. Nelson A. Rockefeller, Governor of the State of New York, which I take to be a request for the sum of 10 million dollars to be added to the state budget - to the education budget - for three purposes... to attack in three school areas, the problems of unemployed youth, the culturally and economically disadvantaged, and, three, de facto segregation.

I would like to read just two or three senetences from this report because I think this brings us up to date. It indicates, as recently as February 20 - that's the date on the letter - what the Commissioner of Education of the State of New York is saying about these things. At one

Plaintiff's Exhibit 122.

point, under the heading of the Culturally and Economically Disadvantaged, appears this paragraph. He is referring to culturally and economically disadvantaged children:

> Both the quality of educational opportunity afforded these children, and their ability to benefit from it are affected by the handicaps associated with poverty, overcrowding, instability, unfavorable home life and so on. For children in these circumstances, the chances of realizing their potentialities are remote. To surmount the conditions restricting their opportunities, we must improve the quality of education and provide compensatory services at an accelerated pace or else be prepared to face the consequences of what is generally labeled as social dynamite.

So you see, you have the reference to compensatory services in relation to his request for 10 million dollars. I think this is the first time the Commissioner has talked about compensatory services possibly as reimbursable items, and that refers of course to Point 6 in my statement where I very strongly recommend such services.

And he makes some comment about rxpanding projects like STEP and ABLE and we are involved in both of these projects. I think this is good. And, finally, under the heading, Support of Plans for Integration, he says,

> While Project ABLE and STEP are of special help in dealing with the effects of social and economic change, the full equalization of educational opportunities for minority groups and other children, requires racial integration in the schools. Although there are legal and practical obstacles which must be cleared away before this goal can be fully achieved, it is nevertheless the inescapable obligation of the schools to move ahead as rapidly as possible. Reports received from local school districts where serious problems of defacto segregation exist, reveal that the situation varies widely and that a variety of approaches will be necessary to achieve solution.

I have called these statements to your attention because I felt as Superintendent I should keep you informed in terms of the latest information I have from the office of the State Commissioner of Education.

CHAIRMAN RUBINO:--Are there any observations by members of the Board on the Superintendent's statement ..... Mr. Parlato.

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MR. PARLATO:--I would comment first on Dr. Allen as rather blithely referring to legal and moral obstacles which I take at this stage to be a concession. I would say this. Dr. Allen, speaking of compensatory education, of course, is speaking of something that is needed and I am sure he does not define the need for compensatory education as solely a Negro need. Dr. Allen's theory as stated, I think, is that equality of educational opportunities requires integration .... I don't think you would contradict me if I said that that presumes that no amount of compensatory education would suffice, but presumes that the teaching facilities ... that is, the teachers themselves, textbooks, physical and tangible offered the pupils would be not only equal but might even be superior, so compensatory education, while a means to long range natural integration is an academic question when it comes to racial balance, which means direct integration.

Dr. Allen has not communicated directly with this Board of Education. Dr. Allen has given us, the Buffalo Board of Education, no opportunity to legally question his statements. We can not be deemed at all to be either ignoring or disobeying Dr. Allen until the time comes when he has the courage of his policy to furnish us with a legally questionable proposal or directive. As of now, Dr. Allen stands as a creation of the legislature, head of the Department of Education, a creation who cannot himself legislate. Dr. Allen has this law to contend with. This is in the State Education Law, the same law which creates the Department of Education's declaration of policy: "It is hereby declared to be the policy of the State that the American ideal of equality of opportunity requires that students otherwise qualified be admitted to educational institutions without regard to race, color, religion, creed or national origin." Continue with, "Exception for Denominational Schools. (This is section 313; it follows:) Unfair educational practices - It shall be unfair educational practice for an educational institution after 1948 (a) to exclude or limit or otherwise discriminate against any person or persons seeking admission as students to such institutions because of race, religion, creed, color, or national origin. Further, it shall not be an unfair educational practice for any educational institution to use criteria other than race, creed. religion, color, or national origin in the admission of students."

If what is deemed an unfair educational practice for the state to base admission on the reason of race, or to deem not an unfair educational practice for the State to use criteria other than race, why are the people of Schools 56, 45, 38, 52 and other people being deprived of using criteria other than race for their objection to the transfer of their pupils, or for the admission of their children to

schools of our city, and why are we as a Board proposing what is defined as an unfair educational practice, that the children be placed in the school on the basis of race, religion, creed or color?

Racial discrimination, I think, has always been touted by its proponents, as in this particular case, as a beautiful way of solving society's problems. It is usually sweet-tasting, sweet-smelling poison. Racial discrimination is the basis of what is now called the race problem in America. Racial discrimination will never solve it. The issue before this Board is not integration or segregation. The issue is, shall we discriminate or shall we not discriminate? The issue is, shall we abandon or retain that American ideal quoted in the Education Law of the State of New York, and, Incidentally, I might add, quoted in a variety of policy pamphlets issued by this Board of Education. That is the issue. If we abandon the ideal as to race, we will abandon it next as to religion, next as to national origin.

Dr. Manch has given us a seven-point program and in most instances I agree. Especially, his compensatory education plan which, on the other hand is, as I say, academic when it comes to the issue itself of racial balance. I have high respect for Dr. Manch and also for the fact that he as well as the other members of our staff concede readily that this is a policy decision to be made by this Board of Education. Dr. Manch should not be given the responsibility or the right to make this policy decision. We all, of course, appreciate and listen to his reasons and his proposals, but he was the first, when I came on this Board when this question arose, to acknowledge that we, the Board members, had to accept the responsibility - the responsibility to make a decision on a matter on which there are no experts. This is not a professional educator's question. This is one of basic citizen policy. Are we, the citizens of the City of Buffalo, going to abandon that American ideal?

Dr. Manch, I respectfully disagree with your Point I where you say, "I believe it is desirable, in a pluralistic society like ours, to attempt to reflect in school membership a cross section of the cultural and ethnic background of the community." We are, I believe, a Board of Education, not a Board of total child environment. Our teachers are having problems enough teaching our children the academic and vocational subjects which will enable every child in the City of Buffalo to compete equally with his peers, to reach for the next step guaranteed by the American ideal of the next opportunity available.

But, besides being a pluralistic society, and long

before being a pluralistic society, and the only reason we are a pluralistic society is that basically we are, or I thought we were, a free society. It will some day be wonderful to see the cross section of the cultural and ethnic background of a community reflected in our schools such as you describe, reflected in our compulsory school system but only if such reflection, or such cross section rather, is a reflection of a free people, not the make believe contrivance of a government that will be approaching the totalitarian.

Doctor, in your recommendation that we implement or modify the pupil transfer policy, in your suggestion, I find a proposal not that we modify, but that we completely change. That we change from what was originally, specifically understood to have been a non-racial plan, to one which now would limit the privilege of voluntary free transfer only to pupils which might as well be simply called Negroes, because by definition, the racial imbalance exists in the exclusively Negro schools, and with due respect to you, I feel that you have, since the Board acted in June, I believe, in adopting the policy at which time you said we could not limit it to any pupils on the basis of race, that that is exactly what you propose now.

DR. MANCH:--May I just interpose?

MR. PARLATO:--Certainly.

DR. MANCH:--I said that on the basis of the policy we had adopted at that time, it would be open to everyone. It is a matter of emphasis ....

MR. PARLATO:--But the Board did not have the right at the time to limit it along racial lines.

DR. MANCH:--My point was that as we were considering the policy as it was written, this would permit any student from any school who wanted to move somewhere else, to move - the Board had not designated any sending schools, and after all, we did have ... the whole point of the policy to submit to the Commissioner was to achieve some measure of what the Commissioner was asking us to do. We hadn't gotten into the arguments that we are not .....

MR. PARLATO:--I think, as a ....

DR. MANCH:--So that we must look at these in context of time, so that at that time we were trying to adopt a policy which we thought would be legal from every point of view. I was aware of what had been attempted in other cities, the challenges made and so on, but we recognized after discussion that it probably would not achieve what we wanted to do, or what we felt we wanted to do, but on the contrary would act in a reverse way. For example, actually we were

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not interested in the policy of encouraging a lot of white children, and I think we should speak freely about this, to leave all-white schools to go to another all-white school simply because, if we have such schools, simply because they wanted to be with their friends or some one else. That was not what we had in mind. However, as it was written, that is about what could have happened.

For example, to give a typical illustration, you could go all the way to South Buffalo, or to North Buffalo, and we could say that a youngster from School 67 could have requested permission to go to School 72 and that was not ... there is a policy regulating that kind of transfer ... but that was not what was intended by the policy we had worked out.

In subsequent conversations, you recall, the Board had about agreed to the elimination of the segments and to the designation of sending schools, but we never acted on that because at that time the Board adopted the delay. That is, you decided to postpone, so I was reflecting in this, actually, things that we had discussed.

Now, I will tell you, Mr. Parlato, that (and Dr. Wilcox knows this because we talked about this a great deal) I was very, very concerned about what phrase to use in B part "where racial imbalance exists." I knew what was desired in terms of achievement to carry out the Commissioner's request, which you have a right to challenge, and I originally had worded it, "Where crowded conditions may exist," but that doesn't answer it either because some of the schools we are concerned with are not crowded, you see, so I finally said, Why look for a word; why deal in semantics? What the Commissioner is talking about is 'racial imbalance.'" So I settled on that finally. However, this is simply a point of view of mine with regard to the first statement which you questioned, the pluralistic society statement - this is not a matter of suggesting a policy - this is a point of view. I felt I could honestly state my feelings about this - a feeling which I have had for many years and which I have never sought to hide in any way.

I do think as an individual, as a person, that in an American community, to the ext that we can achieve a cross section of background in terms of ethnic identification, in terms of nationality, in terms of what is nationality ancestry, in terms of religion, in terms of many other things that go to make up our society, to the extent that wecould achieve, not by artificial means, because I don't suggest any artificial means directly, to the extent that we can achieve that, we will, in the long run, have a better concept of a working organization in the school which relates to what we think about our country as being a melting pot, or whatever you want to call it.

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I feel it is a desirable goal - I believe that it is desirable - I don't say we have to do it by law - that we are compelled to do it, or that we can in many cases. I still think it is desirable.

MR. PARLATO:--On the other hand, to the extent that we are discussing a placement policy, I felt my objection was ...

DR. MANCH:--Yes, I just didn't want to hide behind anything. This is the way I feel. I make it very clear.

MR. PARLATO:--I had full confidence in that ... it is just the way it ...

DR. WRIGHT:--Mr. President, are we limiting our comments to five minutes today or not?

MRS. SLOMINSKI:--We haven't been.

CHAIRMAN RUBINO:--Well, I think we will have to permit as much time as we think we need because the statement is quite a lengthy one, and I think to comment on every portion ....

MR. PARLATO:--I will make it brief. As to your point 4, I find essentially that I agree with you as to your reasoning but I find difficulty in reconciling that with your recommendation that there be an artificial integration for Woodlawn Junior High School because I find that the essential part of your point 4, it seemed to me, would be that mandatory artificial integration will lead to educational chaos. I can't find that the ....

DR. MANCH:--I think I can settle this very quickly. I think you know what I mean by this. I am talking about the kind of plan that has been discussed at various times where children in one community would be sent to another community and children from that community be sent back to the other community in order to achieve an artificial racial balance.

DR. WRIGHT:--When did we discuss such a plan, Dr. Manch?

DR. MANCH:--We have not discussed it.

DR. WRIGHT:--This Board has never discussed that ...

DR. MANCH:--We have not discussed that, but let me tell you this, Dr. Wright....

DR, WRIGHT:--But the community thinks this Board has discussed that. We have never advocated that.

DR. MANCH:--I put this in here to set the mind of the community at rest so far as I am concerned. I am not recommending that

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kind of thing and I found as I went around the community, and other members of the Board, I think, have had the same experience, that many people thought we were discussing this kind of thing or that it was under consideration. I wanted to make it very clear that it is not.

MR. PARLATO:--On the other hand, Doctor, to the people of School 56 who are being sent to the Woodlawn Junior High School, I don't see that their education is going to differ one wit depending on whether or not the children from Woodlawn Junior district are sent to School 56. To me, the exchange points up the absurdity of it but ....

DR. MANCH:--Mr. Parlato, would you say that a mile .... I don"t think we should get into a ....

CHAIRMAN RUBINO:--I don't think we are here to discuss Woodlawn Junior High School today. I think you should continue to make whatever observation you choose on the statement of the Superintendent and then when we get our full Board, I think it might be well to review the matter that is going to be our concern very, very soon.

MR. PARLATO:--I was interrupted - and, on the other hand ... I just want to get these feelings out and the other members can ...

CHAIRMAN RUBINO:--You continue.

MR. PARLATO:--Well, to me, the artificiality of a racial integration is not measured by distance nor determined by distance, but measured to different neighborhoods and in relation to the action taken by the Board last June, I believe, as the result of which some Negro children were transferred from School 3 7 to School 76, I wish to repudiate the implication that I joined in the unanimous approval that was given for the reason that a racial mixture would be the result. As far as I am concerned, that district was included not because of Negro or white, nor in spite of the fact that these transferees were Negro, but simply irrespective of it.

DR. MANCH:--That is correct.

MR. PARLATO:--And that the only reason we were supposed to even know and to be discussing the racial question was to be prepared for possible community reaction. I am in complete accord with your Point 6 having to do with the high priority that is to be given to an all out effort to provide special services.

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DR. MANCH:--As I say, I would like to make that point I really. It is very, very important.

MR. PARLATO:--And as we have discussed it in the past, this to me .... that is, the equality of education as meaning that we furnish every child according to his need .... if some needs are more expensive than others, I still feel .... that is, that equality is not measured in terms of dollars. That is the root as far as I am concerned to true integration and, of course, to legal integration. I have no further comments at this time.

DR. WRIGHT:--Mr. Chairman, I would like to be the next speaker inasmuch as I have to leave.

Dr. Manch's statement of February 14, 1964, does not take the place of a policy statement which the Board has to face. It is an admirable statement for the Superintendent to make -- cautious, but expressing his concern for children and his anxiousness to do as much as he can about racial balance under the nose of a reluctant Board. But our job on the Board is first and foremost to acknowledge our responsibility to do something to prevent schools from becoming racially imbalanced, and to eliminate racial imbalance where it exists. Until this simple step is taken, anything else we say is an evasion of the issue.

The only goal I want to serve as a School Board member is to ensure that all children get a sound education. I submit that Negro children have not been getting a sound education. Negroe children are huddled together in a school system which the United States Civil Rights Commission report has called, in some respects, the most segregated in the state. And in these segregated schools Negro children do receive an inferior education.

These are the schools that have the most drop-outs, the fewest children going on to college, the poorest record on achievement tests -- in general, the greatest and most tragic waste of human potential. That these children are educationally deprived can be supported by the following facts and figures.

I am sorry that I am using facts and figures related to Woodlawn Junior High School - we are not discussing that today - but I will use these figures as examples.

The percentage of non-contract teachers is markedly higher in predominantly Negro schools. In the junior high schools, for example, Clinton Junior High Schools has the largest Negro enrollment and has 70% non-contract teachers; Fillmore Junior High School has the second largest Negro enrollment and has 53% non-contract teachers; Gen.Humb.Junior High School has the least number of Negroes enrolled and has 46% non-contract teachers.

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In the elementary schools we have been discussing as possible feeder schools for Woodlawn Junior High School, the predominantly white schools -- 30, 38, 45, 52, and 56 -- have an average of less than 40% non-contract teachers, whereas the predominantly Negro schools that we have been discussing -- 8, 16, 17, and 74 -- have an average of over 60%, and they are by no means the worst. School 6 has 73% of non-contract teachers and School 37 has 70%.

The same trends are apparent with temporary teachers. Clinton Junior High School has 30% temporary teachers; Fillmore Junior High School has 21%; and Genesee-Humboldt has 16%. The composite figure for the four Negro schools that we have been discussing as feeder schools in respect to temporary teachers is 41%; for the five white schools it is 21%.

Figures for instructional costs show the same educational deprivation for Negro children. The composite five-year average expenditures per pupil, for the period ending 1962-63, was $345; for the ten highest schools and $250 for the ten lowest schools -- a difference of $95 per pupil per year. Pupils in the ten highest schools receive, on the average, more than 1/3 more than pupils in the ten lowest schools. The ten highest schools were predominantly white -- less than 15% Negro over-all -- whereas the ten lowest schools averaged more than 62% Negro.

A move toward integration cannot be successful unless a few Negroes are moved into a predominantly white situation. By the time the proportion of Negroes reaches 40% the balance begins to tip. This has happened all over the North in housing, and we have seen it happen right here in schools. Just two years ago a report showed School 16 to have about 60% Negroes, but take a loot at School 16 and see what has happened.

Woodlawn must therefore have at most 40% Negro pupils. Such integration has a reasonable chance of succeeding and remaining a stable balance. This can be done at Woodlawn without drawing pupils from more than one and one-half miles.

Social integration is not the urgent item today, but for a Negro child to get a sound education, it is almost mandatory to sit next to a white child in school, and sometimes I wish it were not so.

MRS. SLOMINSKI:--Mr. President, I have a statement which I would like to read.

There seems to be some confusion concerning the "special message" from Commissioner Allen dated June 14, 1963 addressed to all Superintendents and Presidents of

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[illegible] Education on the subject of "racial imbalance in schools." On page three of the Commissioner's communication, he requests only that specified information regarding "racial imbalance" be submitted to the Commissioner by September 1, 1963. The Commissioner also states, "In addition to this request for information from your district, I have directed the staff of the State Education Department to re-examine all State laws, rules, regulations, policies and programs pertinent to the issue here under discussion, and to submit to me by the same date any revisions that may be necessary for making them more effective instruments for the elimination of racial imbalance."

In this very paragraph, the Commissioner indicates that in order to bring about racial balance, there must be a revision of existing legislation. In an interview reported in a local newspaper on October 30, 1963, the Commissioner stated that "he had no specific plans now for recommending any new state laws or education department regulations to deal with local problems of racial imbalance."

Sections 313 and 3201 of the Education Law state "no person shall be refused admission into or be excluded from any public school in the state of New York on account of race, creed, color or national origin." The State Supreme Court in the application of Balaban et al vs Max J. Rubin et al on September 6, 1963, held "inclusion of children in the school zone upon basis of their race and their consequent exclusion from other junior high school which was their traditional neighborhood school and from other schools towhich they might have been assigned on a lawful basis, violated the spirit and intent of the Education Law prohibiting refusal of admission of persons to public schools on account of race." The case clearly held "that children had no vested, indefeasible right to attend a specified junior high school or any other particular public school in the city, but did have a moral and statutory right not to be excluded from any public school by reason of race or color."

In the only situation where Commissioner Allen specifically ordered a Long Island School district to end racial imbalance, the State Supreme Court held in January, 1964, that Commissioner Allen's order violated a state law designed to bar discrimination in the public schools.

It is my feeling that if the Buffalo Board of Education embarks upon any policy at the present time to end racial imbalance in our schools, we would have educational chaos in Buffalo and a mass exodus to the suburbs.

Under the present New York State laws against discrimination, how can any Board of Education justify sending only one half of the youngsters in a neighborhood school

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to a junior high school only a few blocks away, and at the same time exclude the other half because of the accident of their color. Until there is a change in our present New York Statutes, this exclusion of children from a neighborhood school on the basis of race alone is contrary to law.

Rather than concern ourselves with racial balance, I offer the following recommendations for your consideration:

1. That we continue the neighborhood school pattern which has proven to be successful over the years; and that the policy of the Buffalo Board of Education firmly state that race, color, national origin, religion, or creed should not be regarded as handicaps nor as limiting factors in school admission, training and placement.

2. That the staff immediately identify to the Board all schools in need of special services because of socio-economic reasons, and that funds be appropriated for these schools to provide more teaching aids, special curriculum, reading specialists and smaller class size. We should not pay lip service to the urgent need for these special services in many of our schools.

3. That a committee of the Board meet with teachers and administrators of schools in low socio-economic areas to determine teacher needs, pupil needs and needed improvement in physical facilities.

4. That the Board carefully review the problem of discipline in all the schools and adopt a realistic and workable policy to give firm authority back to the classroom teachers with full administrative and Board support. Many teachers have either left the system or retired at the earliest possible time because of an ineffective discipline policy.

5. That every effort be made to assign master teachers to the primary grades in all schools. Certain schools have an imbalance of temporary and substitute teachers in the primary grades, and this kind of imbalance can only lead to future "drop-outs."

6. That a Board committee be appointed to study present curriculum and textbooks in order to affect necessary changes. Many high school students are not reading on a high school level. This is a matter of great concern to the Board, and therefore, the causes for this reading problem must be eliminated.

7. Qualified teachers are the backbone of every school system. The Board should review our personnel hiring program, and visit teacher colleges in order to attract more

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teacher graduates. The salary of our teachers must be raised in order to retain and attract more qualified teachers.

I feel that the Buffalo Board of Education should concern itself with a quality education for every child. We are not a board of integration, nor a board of transportation.

CHAIRMAN RUBINO:--Are there any other comments on the Superintendent's statement?

MR. PARLATO:--I would like to state my unqualified support for Mrs. Slominski's seven-pont program.

CHAIRMAN RUBINO:-Would you like to make any comment, Mr. Economou, or would you choose to want to wait until .....

DR. MANCH:--May I ask a question? Are you including in that the fact that you feel that we have an effective discipline policy, Mr. Parlato? I think it is very important for the staff to know where we stand. I believe one of Mrs. Slominski's points indicate .... didn't you say that, Mrs. Slominski.

MRS. SLOMINSKI:--No, Mr. Superintendent, I do not agree with many points that you made in your program, but I realize that what we are stating here are our own personal feelings

DR. MANCH:--I understand, but I have a right to ask whether....

MR. PARLATO:--Let me say this - from what I recall of Mrs. Slominski's statement, I give my unqualified support. I don't recall that there was any specific point made to criticise the current discipline program, but on the other hand, that we review it.

DR. MANCH:--Everything can be improved at all times, everywhere.

CHAIRMAN RUBINO:--There certainly is much to be said about some of the observations Mrs. Slominski made, much to be said with the observations Mr. Parlato made, much to be said about the observations made by Dr. Wright, and because we have on our Board two lawyers, and certainly two very capable lawyers who have brought to our attention some of the matters that do contain a rather legalistic point of view, which is very important, and because Dr. Manch has called closely to our attention his observations that are very, very incumbent upon us as responsible Board members to consider with respect to creating educational chaos and all the many other ramifications that go with this great problem that is facing us, and certainly

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the law that has been read is that no person shall be excluded from school because of race, color, creed, or national origin, and yet, on the other hand, the State Commissioner of Education has, unfortunately, and certainly not distinctly, clearly spelled out what the responsibilities of a Board of Education are, because at this point, not being a lawyer, but being what I hope is a good citizen, and being one who is as concerned with this educational school system as anybody in this city, and I will admit, in spite of the fact that some people,(and I am sure there must be some because at this point there must be variances of opinions on many levels,)might think that the Board has been lethargic in its application of its responsibility to a problem which, frankly, I, as an individual, don't feel as completely secure about at this moment with respect to what I feel is going to be right for our schools, but in a very, very short time will, especially when our full Board is convened, will certainly be found on what I hope is the side of the schools and of the side of the community and of the side, particularly, of the children.

I will make that decision all by myself in keeping with my conscience, in keeping with my dedication, I hope, with respect to my concern for the schools and certainly I am going to be influenced to some degree by our Superintendent of Schools who is the educational leader, knowing full well that the policy making powers of this Board are strictly and exclusively the members' of the Board of Education.

I will not in any way neutralize or water down my responsibility and look for someone to lay my sympathetic head on. If I did, it would be the first time I have done that in my 45 years on this earth, and if I require a little more than than some people may require, I think that is all the more evidence of the time I feel I need to come to what I hope will be a resolute and honorable and honest decision.

I have much respect for my colleagues, they are well aware of that. I have much respect for the many points of view that have been offered in this very difficult problem that is facing us. I have much respect for the people that we have listened to today. I have much respect for the parents in the community who have evidenced much concern about their children. Certainly there is much to be said about the neighborhood school policy..... I have never known any other policy but the neighborhood school policy ... and certainly all of these many things that are confronting this Board in conjunction with the state law, in conjunction with the State Commissioner of Education whose directive or

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or eligibility the various School Districts throughout the State is still rather unclear, and as has been pointed out, has been reviewed by the courts in this State, and there are many things that are not yet completely crystallized but are slowly becoming crystallized in my mind .... I can only assure this community that I, as a member of this Board, after hearing all that I have heard and all that I will continue to hear for the next few weeks will, with my colleagues on this Board, arrive at what I hope will be a decision based on what is best for all the children of our City, and I have no other way of evaluating the problem. I know of no other way. I have always looked at children as children, and I think that can be said for all of us. That is my statement at this point.

MR. PARLATO:--Mr. Rubino, may I say this, I appreciate that you and those others who disagree with my viewpoints on this are of course acting in what you feel to be the best interest of the City, and I would hope that we as a Board of Education might start with some fundamentals and, first of all, we who are supposed to be setting the course for the children of the City of Buffalo, give what I would consider to be a wonderful example and recognize the discipline under which we as Board members are supposed to act, recognize the discipline we swore to adhere to when we said we would follow the laws and the constitution of the State of New York, and if my views as an attorney, and Mrs. Slominski's views as an attorney, differ ....

CHAIRMAN RUBINO:--And I respect both of your views.

MR. PARLATO:-- .... when we express legal opinions, we don't have the right to have you consider our legal opinions as binding, nor do we have the responsibility when we express them to necessarily have researched the question, and with that I would like to move that we submit to the Corporation Counsel of the City of Buffalo the question which I would phrase as follows:

> Is it within the legal power of this Board of Education to consider the race of any pupil, or the racial composition of any group of pupils in our deliberations, judgments, and decisions as to where to draw the district boundary lines for Woodlawn Junior High School?

SECONDED--MR. ECONOMOU

CHAIRMAN RUBINO:--There is a motion before the Chair that a ruling be asked of the Corporation Counsel.

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MR. PARLATO:--[illegible], so that we could get it on the record, read it back ... we can discuss amendment for clarification.

(Motion read back)

CHAIRMAN RUBINO:--Is that substantially what you said, Mr. Parlato?

MR. PARLATO:--Yes.

CHAIRMAN RUBINO:--Any comments on the motion - on the question?

MR. PARLATO:--On the question, at a variety of times we, when there has been a legal question, have with almost unanimity, acknowledged the function of the Corporation Counsel of the City of Buffalo as our legal advisor ....

DR. WRIGHT:--That is not so, you and Mrs. Slominski always want to challenge the Corporation Counsel, and I am not a lawyer but one time I wanted to challenge him too so go ahead with your question.

MR. PARLATO:--For the purposes of consistency (I don't think I have anything to lose) .... I think I would be then inconsistent .... but I will go along and say that if the Corporation Counsel rules that we would act within our power in considering the racial composition of the group, if everyone else will pledge ..... upon making this motion, will pledge .... I will speak in terms of race.

CHAIRMAN RUBINO:--You are making about 16 different ....

MRS. SLOMINSKI:--I don't think, as an attorney, I would ever give up my right to disagree with an opinion of the Corporation Counsel. I could never give up my right, and this is why we have higher courts.

CHAIRMAN RUBINO:--Now you see what disadvantages the other three members of this Board who are not legally trained have with respect to an argument that is very valid and very understandable on the parts of two of our members who find themselves as lawyers.

There is a motion before the Chair which is a very proper motion, it has been made and seconded, and we have to vote on the motion as you submitted it.

MR. PARLATO:--On the question, let me say this. As far as I am concerned, I will not bind myself, nor ask anyone else to bind him or herself. I would imagine that we would all, lawyers and non-lawyers, find that the Corporation Counsel's opinion would be a factor, surely, in our deliberations.

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DR. WRIGHT:--What about Commissioner Allen's ....

MR. PARLATO:--He is not a lawyer.

CHAIRMAN RUBINO:--I don't think we have to discuss Commissioner Allen .... there is a motion .... and in order to keep our parliamentary procedure in proper order ....

DR. WRIGHT:--My objection is based on the fact that we already have a directive from Commissioner Allen. Why do we need a clarification from the Corporation Counsel?

MR. PARLATO:--We don't have a directive from Commissioner Allen.

DR. WRIGHT:--We are not going to follow the Corporation Counsel ....

CHAIRMAN RUBINO:--We are on the question, and I think by the same token, we are under no compulsion to follow the statement that has been issued by the Superintendent, but certainly many people, including members of the community, would like to use it as a guideline in order to more properly crystallize our thinking.

I see the motion as a very valid motion, and certainly I, who am not a lawyer, would appreciate the opinion of the Corporation Counsel, as I have appreciated his opinions, and those of many of his predecessors over the years on the many problems that have confronted this Board.

MRS. SLOMINSKI:--I would like a roll call vote.

DR. MANCH:--Am I permitted to make a comment for information?

MR. PARLATO:--Yes.

CHAIRMAN RUBINO:--He is a non-voting member of the Board. He can talk on the question.

DR. MANCH:--As members of the Board, you may wonder sometimes on what basis the staff members take a position on certain issues and they are matters that are legal, frequently. For example, ... I am not saying this to affect the motion .... I think this is information .... on this particular thing - on this particular thing - in two successive years at the Commissioner's meeting of Superintendents in the fall, Dr. Brind who is the legal counsel for the State of New York, has indicated, and he used these words at one time - he said , "Gentlemen, it is no longer a question of whether you will or will not integrate, it is merely a question of how to accomplish this." So this was an expressed opinion on the part of the

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legal counsel. He is the legal counsel of the Commissioner. I merely say that, and I wonder where we stand. I would have to defer to the lawyers, and I am sure I am not quoting him incorrectly.

MR. PARLATO:--The source of the law is not that complicated ..that we would have to be concerned ....

DR. MANCH:--I mean, if you get one kind of an opinion from the Corporation Counsel, and another kind from Dr. Brind, who is the State legal counsel, what would the Board then do?

MR. PARLATO:--He is not our counsel. We have only one concern.

DR. MANCH:--All right.

CHAIRMAN RUBINO:--Let's proceed with the roll call vote on the motion.

MR. ECONOMOU AYE
MR. PARLATO AYE
MRS. SLOMINSKI AYE
DR. WRIGHT Since I have nothing to lose, and everything to gain, I vote No
MR. RUBINO AYE

AYES-ECONOMOU-PARLATO-SLOMINSKI-RUBINO-4
NOES-WRIGHT-1
APPROVED

- - - -

DR. WRIGHT:--Would you excuse me, Mr. Rubino?

CHAIRMAN RUBINO:--Certainly. Dr. Wright has put in a long day, as have the rest of us, and she must go to the hospital.

(Dr. Wright excused at 1:50 P.M.)

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MR. ECONOMOU:--Mr. President, I have a statement ..

I have read and reread the Superintendent's statement as a basis for Policy on Racial Integration and in the main I find it reasonable, logical and sensible as a philosophical document. I am wholly in accord with 2 (a) which reads:

> The four segments should be eliminated and pupils should be permitted to transfer to schools anywhere in the city where this is available space.

Plaintiff's Exhibit 122.

but I have to include that no transfer plan is provided.

I agree with points numbered three and four. I would wonder why transfers should begin at the fourth grade level. Educationally speaking, I think I know the answer - but as a philosophy, which this statement is, why? Is integration any less important at the kindergarten level?

Some say that there should be a "quota system" and I have heard it from people to whom the word should be so odious, that it should be eliminated from our vocabulary entirely. We have known the quota system too long in our American way of life, and Thank God, in our State, the fair employment practice has gone a long way to eradicate this narrow, bigoted, hateful discrimination. Shall we now introduce it in our schools? I say no, loudly.

It is my opinion that parents want to send their children to a neighborhood school for reasons of safety, convenience and economic reasons, as well. However, it is also my opinion that if a parent wishes to relocate his child and will assume the responsibility of his safe arrival and departure at the school of his choice, and if there is room at this school, then the parent should be allowed to do so.

I would remind you that 30% Negro and 70% white, or 40% Negro and 60% white, or whatever combination of numbers you choose, may achieve a so-called racial balance that is platable to some people, and it may spell desegregation, it will never spell integration. That will come when the child is taught to respect the student sitting next to him regardless of the color of his skin. This is the goal we must achieve, and this is the goal for which I strive, otherwise the Honor which was bestowed on me and some of my colleagues by the National Conference of Christians and Jews becomes a mockery.

CHAIRMAN RUBINO:--Thank you, Mr. Economou.

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CHAIRMAN RUBINO:--The Chair will accept a motion to approve the minutes of January 22, 1964.

BY MRS. SLOMINSKI

Mr. Chairman, I move that the minutes of January 22, 1964, be approved.

SECONDED--MR. ECONOMOU

Plaintiff's Exhibit 122.

CHAIRMAN RUBINO:--It was moved by Mrs. Slominski, seconded by Mr. Economou, all in favor say Aye.

AYES-ECONOMOU-PARLATO-SLOMINSKI-RUBINO-4
NOES-NONE
APPROVED

- - - -

A recess was called at this point and the Board reconvened at 2:25 P.M.

CHAIRMAN RUBINO:--We will proceed with Item 2.

DR. MANCH:--In Item 2 you have the routine personnel changes for your approval.

CHAIRMAN RUBINO:--Are there any questions? What is the pleasure of the Board?

BY MRS. SLOMINSKI

Mr. Chairman, I move that the changes in staff be approved, as recommended and filed, for the Instructional Division; also for the Clerical Staff; the Plant Services and School Planning and Repairs Department.

SECONDED--MR. PARLATO

CHAIRMAN RUBINO:--Moved by Mrs. Slominski, seconded by Mr. Parlato, all in favor say Aye, contrary None, so ordered. Item 3.

AYES-ECONOMOU-PARLATO-SLOMINSKI-RUBINO-4
NOES-NONE
APPROVED

- - - -

DR. MANCH:--Appointments for Eligible List

A canvass of the eligible list established as a result of the examinations of November 2, 1963 has resulted in the following acceptances:

Name	Area	Eff.Date
Andolina, Sylvester P.	K-6	9-1-1964
Andruczyk, Paul A.	K-6	"
Anger, Bertamae	K-6	"

Plaintiff's Exhibit 123.

Submitted by Dr. Brecker, approved by Dr. Beecher and recommended by the Superintendent.

BY MR. NITKOWSKI

Mr. Chairman, I move that the payrolls submitted under date of March 11, 1964, be approved as proposed by Dr. Brecker and recommended by the Superintendent.

SECONDED--DR. WRIGHT

CHAIRMAN RUBINO:--Moved by Mr. Nitkowski, seconded by Dr. Wright, roll call, please. Item 17.

AYES-NITKOWSKI-PARLATO-SLOMINSKI-WRIGHT-RUBINO-5
NOES-NONE
APPROVED

- - - -

DR. MANCH:--We submit Summary of Voucher Lists, which have been prepared and certified:

GENERAL FUND:

LIST NO.	AMOUNT	LIST NO.	AMOUNT	LIST NO.	AMOUNT
318	$ 34,693.46	326	$ 3,573.12	333	$ 118.48
319	617.26	327	724.88	334	773.50
320	1,675.50	328	255.94	335	780.00
321	6,969.21	329	1,003.54	336	639.25
322	3,563.52	330	5,892.47	337	648.50
323	516.82	331	739.65	338	102.00
324	46,731.00	332	771.45	339	7,349.43
325	292.13				

BOND FUND:

133	20,381.40	137	20,173.82	140	1,514.85
134	5,095.13	138	7,156.69	141	7.98
135	1,571.39	139	8,000.00	142	40,764.58
136	4,616.19				

REVOLVING FUND:

64	1,286.38	66	7,528.54	68	970.42
65	16,667.59	67	3,450.39	69	279.06

Warrants have been drawn and mailed to vendors in payment for the items on these lists, in the amounts set forth therein, as authorized by the Board of Education on September 29, 1939. I, therefore, respectfully recommend that my action be approved.

Plaintiff's Exhibit 123.

Submitted by Dr. Brecker, approved by Dr. Bascher, recommended by the Superintendent

BY MR. NITKOWSKI

Mr. Chairman, I move that the voucher lists, Nos. 318-339 on the General Fund; Nos. 133-142 on the Bond Fund; and Nos. 64-69 on the Revolving Fund, be approved for payment, as proposed by Dr. Brecker and recommended by the Superintendent.

SECONDED--DR. WRIGHT

CHAIRMAN RUBINO:--Moved by Mr. Nitkowski, seconded by Dr. Wright, roll call please.

AYES-NITKOWSKI-PARLATO-SLOMINSKI-WRIGHT_RUBINO-5
NOES-NONE
APPROVED

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CHAIRMAN RUBINO:--Any specials?

DR. MANCH:--I have just two, Mr. Rubino, at the pleasure of the Board.

CHAIRMAN RUBINO:--You may proceed.

DR. MANCH:--The first one is something that has troubled me in the past. There have been some statements made by a number of persons, and I do not question their sincerity, but I do question the facts on which the statements are based. Statements which have tended to imply or indicate that the quality of the program of education in some schools in the city, particularly in the Negro areas of the city, are not as good as that provided in other areas of the city, primarily areas where largely we have white students.

Now, it is not my intention to get into an argument on this subject but, because the question has been raised and a number of statements have been made, I merely want to inform the Board that I discussed this matter with our total main office staff and a number of our principals were also involved in a discussion of this in the past week, and I have said to the staff in talking, not only t the division heads but the supervisors and directors, the people who get into the schools regularly, if you know this to be true in any way, I would like to know it - I must know it - and I have been

Plaintiff's Exhibit 123.

assured by the members of the staff that these facts as facts are not borne out by our own observations.

There have been statements made about inferior school buildings in some cases, and Dr. Rooney is prepared to comment on that. Inferior teachers, inferior curriculum, and so on, and I can not find any evidence in going over these matters with the staff that these things are so. On the contrary, I am told by members of the staff, and I know this to be true in many cases, that certain schools have had the enrichment program because of the needs of the children, so that in a sense, we have given these schools, and they are largely in Negro areas of the city, more service than schools in other areas of the city. Now, I make this as a general statement. If the Board wishes to hear from me or any members of the staff on any part of this, we would be happy to discuss it, but we await your pleasure.

MRS. SLOMINSKI:--Mr. Chairman, I would be interested in the report that Dr. Manch is referring to. I was going to make reference to a communication which I received as a member of the Board of Education from Mr. Nelson H. Nichols, who is the Executive Director of the Buffalo Urban League. I know we are all familiar with this letter - certain parts of it have been quoted in the press. I am only afraid that if we remain silent, it could be interpreted as consent. I would like to request, Mr. Chairman, that the Superintendent be directed to promptly reply to this specific letter of Mr. Nichols; that the letter not only be addressed to Mr. Nichols in his capacity as Executive Director of the Buffalo Urban League, but also to all officers and directors of this group.

DR. WRIGHT:--I was hoping this discussion would not come up. I object to a letter being sent to Mr. Nichols, or anybody else, saying that the statements that he has made are not true. He made no specific statements. He said that segregation by and of itself is wrong, and that Negro schools, by virtue of the fact that they are Negro schools, are inferior and, Dr. Manch, I hestitate to get into an argument with you, but I challenge you to tell me why it is that the predominantly Negro schools have 60% non-contract teachers and the predominantly white schools have less than 40% non-contract teachers. If temporary teachers are as good as contract teachers, why aren't they more equitably distributed among the schools in the city? By State definition, a qualified teacher is a contract teacher, and these statistics do not lie.

DR. MANCH:--I am glad you raised the question, and you and I don't need to argue about it - we merely need to examine the facts, and I wasn't referring to any one statement, I was referring to several that I have heard.

Plaintiff's Exhibit 123.

I was present at two meetings where statements were made, implied or directly stated, that schools were inferior in the Negro sections of the city to those in white areas, and I promptly repudiated it at the time and, in one instance, I was quoted by the newspapers. I, frankly, do resent the implication that some teachers are inferior and others superior because I don't think we have any means of determining this too easily with regard to teachers. I think, and this is, of course, a natural question, Dr. Wright, if we equate quality wholly with the contract status of a teacher, we can be very badly misled. I am aware of the statistics on which you base your statement, and I think other people have done the same thing. I have discussed this very seriously with the staff because -- I probably don't need to call this to your attention but perhaps I should for the record -- I didn't bring the memorandum with me -- but about three years ago, more or less, I sent to all the members of the administrative staff a memorandum indicating to them that in a period of rapid turnover of teachers, and that is what we have been going through - there is a long story behind that in terms of when we were hiring many teachers in the 20's - the fact that they are retiring now with social security and pension - and I said that in a time when we are going through a rapid turnover, we must be very careful in assigning teachers to try to maintain an effective balance between teachers of experience, and teachers of promise, and the staff has done a great deal to try to effect such a balance. It is difficult because there is growth in many areas of the city and no particular growth in others, and most of the growth has come in the highly congested Negro area of the city.

I assure you, that to say that the quality of staff in a school is inferior because there are a good number of temporary teachers in a school is not borne out by facts of performance. We should measure by performance. For example, it was pointed out to me that in a particular school which had 15 temporary teachers as of the date of the examination results now has only 1 because 14 of them passed the examination. Does this mean that overnight they were transferred from being inferior teachers to adequate teachers. These are facts that need spelling out.

The thing that distresses me is the way some of these bare statistics have been used; they need to be interpreted so that we tell the whole story and are fair to our staff and to our teachers and to all concerned. Now, I would be the first, and I have said this many times, to take steps to wipe out any inequities that exist. I insist on it, but I keep getting the same answer from the staff, and I trust their judgment that things are not true as they have been presented.

Plaintiff's Exhibit 123.

Dr. Leighbody, do you want to make an additional comment?

DR. LEIGHBODY:--I think very little comment is needed, in addition, Dr. Manch. I would have to say that an attempt to measure quality of instruction in a school in Buffalo, or anywhere else, on the basis of the status of contract teachers, is extremely naive, and it is a vast over-simplification to measure and a complex and difficult thing to assess. When you are attempting to assess quality of instruction in a school, you use certain standard instruments which have been developed nationally, or some adaptation of them, and you use teams of highly skilled, professional people who go in and evaluate programs on the basis of such instruments. One of those instruments is used by North Central Association of Schools and Colleges. Another one, used by Metropolitan School Study Council of New York is called "Growing Edge Study." That was applied to the Buffalo schools in 1957 and 1958. We were compared and compared ourselves to 61 other school systems in New York State on the basis of that instrument and on the basis of teams of observers who came from outside our school system. We ranked very well with the 61 other school systems that were in the study, some of them from Westchester County, one of the high quality school systems. We ranked very well; we were above them in some things and below them somewhat in other things. It was interesting to note that all of our schools were sampled at that time and there was no difference in quality throughout our schools at that time.

We have an instrument which some of the best people who ever worked in the Buffalo schools helped prepare. It is called, "Guidepost for a Good School Program." It contains 90 separate items. It takes a team of the best people we have to go into a school and spend three days to check out these items before one can assess the quality of what goes on in a school. Not one of the items referred to age of the teachers or their contract status. This is simply not a measure of educational quality, believe me. I am sure one would not attempt to assess the quality of a hospital by the ... by looking for the age of the physicians on the staff. These things are much too complex to reduce to simple, easy methods of testing.

I would have to say, Dr. Manch, that the schools to which you refer have had every special service that could possibly be placed there. They have in many ways been favored with special services and we would hope to continue to favor them because of the special needs of those children. They have been favored with buildings - I will call your attention to the fact that by far the greatest amount of money and construction and remodeling of school building has taken place in that area of the

Plaintiff's Exhibit 123.

city , far more than any other area. Supplies and textbooks are on a per capita basis that are equal everywhere.

Among the best leaders in our system are the people who serve in that area. Some have left areas in other parts to take up their post where they can help children most. They are outstanding - both the veteran people and the newer people who have taken principalships in that area of the city. I can't think of any way in which the instructional program could be labeled inferior in that or any other part of our city.

DR. MANCH:--Thank you, Dr. Leighbody.

I have heard the charge made, too - and when these things are going around, they have got to be aired -- that we have not provided as much in curriculum materials, or they are inferi or curriculum materials in some of the schools we are talking about from the point of view of distribution. Is there any truth to this?

DR. LEIGHBODY:--There is no evidence to bear this out, Dr. Manch.

I would also like to point out while we are on the subject, of the 17 reading teachers assigned to our schools, 15 of them are assigned to schools in this area; of the 10 help ng teachers assigned to schools, five of them are in schools in that area; only five schools in the whole city have full time speech teachers; four of the five serve in schools in this area.

MRS. SLOMINSKI:--I would like to point out to you, Dr. Leighbody, regarding these teachers of remedial reading. We do not have any teachers of remedial reading at the present time in Schools 31, 37, or 39. There are three schools where we need to take some immediate steps.

DR. LEIGHBODY:--May I comment? I don't want to be petty - but I would prefer not to call them remedial reading teachers. These people perform a difficult function. They work with other teachers to improve the program, not with children; they are especially trained and they are not available in any other part of the country. We train them ourselves in our reading center; we can only train four a year, at the most, sometimes only three. It is a long process' they come there voluntarily and they return to the school where they came from, or elsewhere, to serve. So the reason we don't have them in those schools is simply that there are not enough.

I would assume that the next three, when they are

trained, would be assigned to those schools.

DR. MANCH:--Of course, this ties in very directly with some of our budget considerations and also Point 6 of the statement I made a couple of weeks ago, and when I presented it to the Board at the last meeting, I said that if I were rewriting the statement, I would probably make Point 6, Point 1. This is where I think we have to attack our problem - the quality of education generally - we must have the money to provide services and needs wherever they are, and in closing this discussion, from my point of view, may I say that what I am concerned about is the effect that some of these statements may have on our staff and children ultimately.

I find as I go into them that this is not a problem that is unique to Buffalo. I was reading in the New York Times of Friday, March 6, a statement - "Principals Deny Bias in Schools" and I don't know what the situation is specifically in New York. I think generally some of the statements that have been made about Buffalo schools have been equated largely with what the situation seems to be in some other cities, but Buffalo is Buffalo - no other city . But, interestingly enough, the high school principals of New York City issued a statement, and it is reported in the New York Times of March 6, the first paragraph of which reads:

> City high school principals struck back yesterday at charges that the school system discriminates against Negro pupils.

There is one sentence which I would like to read to you from it, and this is what they said:

> Intemperate criticism is undermining the morale of our teachers and supervisors.

Now, I would say that constructive criticism with regard to the quality of education in our schools is always welcome. As I said earlier, I would be the first to move to correct any situation that needs to be corrected, but I think we must be very careful that whatever data we use, are very accurate in being interpreted in terms of the situation.

CHAIRMAN RUBINO:--Dr. Manch, may I ask you a question. Are you categorically denying that some of the statements that were issued by Mr. Nichols are right?

DR. MANCH:--First, let me say that I discussed this with Mr. Nichols very definitely after the statement came out, and he hastened to assure me that the statement he made did

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not refer to Buffalo schools; that he was speaking of schools generally, but I pointed out to him that many people who read the statement got the impression that he was talking about Buffalo schools. But, in answer to your question, I am denying, and I will continue to deny it until there is definite evidence to the contrary, that we have inferior teachers, inferior schools, inferior buildings, inferior curriculum, inferior services and inferior programs in any group of schools in the City of Buffalo, particularly in the area under discussion.

MRS. SLOMINSKI:--Mr. Chairman, before we conclude this discussion, getting back to my original point in reference to th is letter by Mr. Nichols, my statement that this Mr. Nichols made a false statement in his letter was challenged by Dr. Wright and I would like to read this let ter into the record so that there will be no doubt as to what is contained in this letter.

I think, under Communications to the Board, I would like to read this letter into the record and renew my original motion that the Superintendent be directed to promptly reply to ....

CHAIRMAN RUBINO:--I doubt that you would be permitted to read it into the record, Mrs. Slominski, for the reason that the letter was not addressed to the Board as a while. The letter was addressed to each member of the Board as individuals, and it was for our own information, as I understand it.

MRS. SLOMINSKI:--Under order of business, Mr. Rubino, it states:

(d) Communications from members of the Board

and under

(e) Other communications

Now, this was addressed to me as a member of the Board, and I know that every member of the Board received an individual letter, the same letter.

CHAIRMAN RUBINO:--I am not trying to be picayune about this interpretation, but I still fail to see where this letter was referred to the Board as a whole. There is no communication before this Board of Education. At least, from where I am sitting. We get many communications from many interested citizens on all levels, community and business life, and I wouldn't think it would be in order that we would read into the record some letters that we had gotten from other sources of our community, so from my point of view, I would have to rule that your motion is out of order.

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MRS. SLOMINSKI:--I feel it is my personal privilege, and I would like at least to read the specific paragraph where I feel he has made false statements ....

CHAIRMAN RUBINO:--I am sorry, but I think it is an invalid request, and I don't think the Chair can entertain ....

MRS. SLOMINSKI:--Then I will repeat my statement that I feel that Mr. Nichols has made false and insulting statements to me as a member of the Board of Education.

CHAIRMAN RUBINO:--Are there any other matters to come before the Board? If not, before we adjourn, the Chair will entertain a motion to excuse the absence of both Mr. Markel and Mr. Economou.

BY MR. NITKOWSKI

I move that the absence of Mr. Markel and Mr. Economou be excused.

SECONDED--DR. WRIGHT

CHAIRMAN RUBINO:--Moved by Mr. Nitkowski, seconded by Dr. Wright, all in favor say Aye, contrary None. So excused.

RUBINO-5

AYES-NITKOWSKI-PARLATO-SLOMINSKI-WRIGHT-

NOES-NONE

EXCUSED

- - - -

CHAIRMAN RUBINO:--Are there any other questions before we adjourn and proceed with listening to our fellow citizens?

DR. MANCH:--I merely want to call to your attention a proposal that has been made for a community college program in Buffalo, and to bring you up to date with a prepared statement which is in the form of a recommendation. I don't know whether you would want to discuss it or not, or if I should hold it for further consideration, but I think we should be aware of it.

MR. NITKOWSKI:--Mr. Chairman, I feel that the item on the Community College should be brought up in committee for discussion.

CHAIRMAN RUBINO:--If there are no further questions, the Chair will entertain a motion for official adjournment and we will proceed with listening to the members of our community.

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BY MR. NITKOWSKI:

Mr. Chairman, I move that we adjourn.

SECONDED--DR. WRIGHT

CHAIRMAN RUBINO:--Moved by Mr. Nitkowski, seconded by Dr. Wright that we adjourn, all in favor say Aye, so ordered.

AYES-NITKOWSKI-PARLATO-SLOMINSKI-WRIGHT-RUBINO-5
NOES-NONE
ADJOURNED

There being no further business to come before the Board, the meeting was adjourned at 11:40 A. M.

CHAIRMAN RUBINO:--The meeting is officially adjourned; we will recess for five minutes and then we will proceed.

Meeting reconvened at 11:50 A. M.

CHAIRMAN RUBINO:--Shall we all be seated, please. The Chair is going to request that each speaker try to limit himself or herself to three minutes with a maximum of five. There are many people who wish to be heard, and we would like to hear from all of them, so if you will keep that in mind, we will very much appreciate it.

We will proceed now to hear from Mrs. Wells Knibloe, representing School 30.

MRS. WELLS E. KNIBLOE, 460 Ashland Avenue:

At a meeting of parents of School No. 30 children and friends in the Elmwood-Ferry area last Thursday evening, I presented two points and developed these with pleas and reasons. This statement, though an individual attitude when presented, was determined to be a majority view and I was instructed to inform you, the Board of Education that which follows:

School 30 parents we believe .... First, that the neighborhood school should be the workshop for integration beginning in kindergarten, and Second, that favorable racial balance in an integrated neighborhood school would make a better school than one which is not integrated.

It was my opinion, that in adopting a positive attitude when the first Negro families move into any area, showing welcome and absorbing them into the schools, churches and local activities would be integration.

Plaintiff's Exhibit 123.

The locality chosen by these families on the move would be under the same consideration any family would make. Moves would be made on the basis of socio-economic backgrounds, and thus the relationships win the schools and communities, no matter where they are, would be natural and not strained.

As homeowners and residents of our West Side area, we have indicated our desire to stay in the neighborhood of our choice. We will make advantage of the expanding Negro population moves to our area. We will point with pride to our integrated neighborhood and to our integrated school. The products of our new community would be better than that which went into it, for we would have our children integrated in their thinking from kindergarten -- firmly believing and knowing the brotherhood of all races.

You, the Board of Education, can turn the negative attitude on the future of the Elmwood-Ferry-Delaware area to positive thoughts. Your decision on the Woodlawn School should be made with full consideration of the important racial balance factor. Beyond this, there should be immediate recognition of the need to integrate on the neighborhood elementary school level, and proposals toward this should be forthcoming. I am thinking of perhaps the new school which several years ago was proposed to replace the out-dated buildings of schools 16 and 30. This could reinforce the stability of the neighborhood.

I would be remiss if I did not present again the concern that is ours, if the Board of Education decides that only Schools 56 and 30 are to provide most of the white students at Woodlawn Junior High School resulting in only token integration, such a decision would have an immediate and depressing effect on our area. Parochial schools would be more over-crowded. The city public schools would be drained of children whose families could afford to move or to send them to private schools, and thus the level of public education even in our neighborhood would be affected. The City stands to lose: We, suburban-resistant residents of the West side would lose, and our schools would lose if the Woodlawn School is districted in such a manner that there is an unfavorable racial balance.

Many of our School 30 parents will cooperate with any decision of the Board of Education, however, we want the Board to adopt positive steps to promote integration on the primary level of public schools in our area, and thus create a workshop of integration where we feel it would be assured success.

Plaintiff's Exhibit 123.

CHAIRMAN RUBINO:--Mrs. David Herschenson

MRS. DAVID HERSHENSON:--I live on Delaware Avenue, and I live in the School district of 64. I came here as an individual. I thought that I might come forward at this time because so much stress has been put on the neighborhood school concept in connection with Woodlawn Junior High School and some of the other schools in the city.

The neighborhood school concept is a term that I have most generally heard in education and city planning as referring to grades K-6. Here the advantages are obvious. We all know the young child torn from the side of his mother has gone to a school within walking distance of the home, and does not have to cross a main street. In grades 7, 8, 9 we are talking about children who are 12-14 years of age. They are not babies. When I was 12 years old, my mother allowed me to go to Albany to a three-day school convention. I am sure many mothers have little children of this age who go down to a movie on a bus a long distance with friends. One mother said it is over a mile - if a mile radius is considered a long distance .... this fear of distance and busing, I think, is out of order here.

My second point is that schools are not just training for the three R's but are training for citizenship. You don't learn in a vacuum. There is a definite advantage in integrating.

I feel Woodlawn, a beautiful school, would provide an excellent place to put our spoken ideals into practice. I want to be fair and say that I am new to Buffalo and may be out of order in speaking, but I have been studying the city very closely and I would like to make it my home. I find many fine things that you do here, many wonderful people. One of the main factors in locating is where executives want to live since they are hard-to-come-by personnel, and what they are concerned about is what kind of schools are there for their children. Certainly, the Buffalo schools would gain education by putting democratic ideals into practice. Buffalo is always talking about boosting itself. I think you can really boost yourself here, but integrate quietly and not with court cases and large demonstrations.

I would just like to make this point, that for the future, if the policy of the State is for integrated schools among the stated policies, the rational criteria that we have in the front of our minds for choosing school sites, it seems to me that one should be whether the site makes possible the attendance of students of all races. Certainly, if we as Americans feel that schools are a

Plaintiff's Exhibit 123.

training for citizenship, people of all backgrounds can learn to respect each other and live with each other - we should try to have racially mixed schools.

CHAIRMAN RUBINO:--Dr. John Milligan, please.

DR. JOHN MILLIGAN:--My name is John Milligan, I live at 21 Allenhurst Road. I came here to speak simply as a private citizen, a parent.

I first came to Buffalo with my family in August of 1962. During the following year, my two daughters attended all white, middle class schools in one of the suburbs. In the area from which we come, my daughters had been in all white schools. Last summer we moved within the city limits. This present school year my older daughter is attending an integrated school and my younger daughter has a Negro teacher. I believe that my daughters have benefitted by the change.

Last year the older girl was an honor student who competed only with white children. So far as her experience told her, Negro children were not intelligent enough to compete. If she thought about it, this probably gave her a feeling of superiority. This year in the integrated school she is still an honor student, but one of her best friends, a Negro girl, is also an honor student. Now my daughter knows that Negro children too are capable of academic excellence. Morever, by looking about her she can see that there are both white and Negro children at all levels of academic achievement. In short, she has learned a valuable lesson without which her education, which after all is meant to prepare her to go out into a world with all kinds of people, could not possibly have been complete.

As for my younger child, she is studying for the first time under a teacher of a different race. She has learned that this teacher is at least as competent as any of the teac hers she has had in the past. But more important, she has learned that she can put her trust in people of other races for information, for instruction, and for education.

Because of the experiences of my daughters, I am convinced that white as well as Negro children stand to benefit from integrated education and that without it, no child can be a complete American.

CHAIRMAN RUBINO:--Mrs. Salvatore Rizzo, please. (No appearance)

Mrs. Armand Jacobs " "

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CHAIRMAN RUBINO:--Mr. Jay Heckman, please.

MR. JACY HECKMAN:--My name is Jay Heckman and I live on Lafayette Avenue in the School 56 district.

Mr. Rubino and School Board, I am speaking here as an individual, representing no group. I have attended various meetings in the last week or two, and I have formed just one opinion relative to the districting of Woodlawn Junior High School and that is that a great many people have gotten extremely frightened. I think many of them are frightened because of the fact that they are not sure what the decision will be, and I would petition the Board at this point - I think one of the most helpful things that could be done for us would be a complete outline as requested by the Minister of the Lafayette Presbyterian Church - a complete outline of the junior high school program, and an overall statement as to what the Board feels about this.

I have studied only briefly reports which I have seen relative to the school situation in the City of St. Louis and some of the Cleveland schools and Newark, New Jersey. Newark, New Jersey was a panic type situation. I think the total population there was 95% ... I don't think we want to see all this happen in Buffalo. I think we have to stand fast and take a very objective view of the situation of integration in the schools of Buffalo.

As far as St. Louis is concerned .... they are not attempting to equate .... throughout the area it is a very difficult situation. I make a plea here today that all of us consider this thinking in the objective, long range. The City of Buffalo certainly has an opportunity here to demohstrate that they can meet a tremendous challenge, that they can go ahead and make a name for themselves in this particular field. I also wish to say that there is a great deal of difficulty on both sides of the fence ... which, in the immediate and close range may work what the residents of the School 56-30 area may feel to be to their immediate disadvantage.

On the West side of Buffalo they are most closely concerned with the neighborhood problem .... we accept racial integration of all types - we have all income levels and all religious groups in this area. We have tried on the West side to avoid being known as one faction - one political faction, one religious faction group, which is not true in other parts of the city. ... Many of us have felt that the basic population percentage Dr. Wright referred to, 60%-40% - made a great deal of sense. We know that unless areas are delineated

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beyond a simple segment of a certain area, it would be impossible to integrate Woodlawn. I think there has been a great deal of soul-searching and thinking on this problem - we have had television and radio coverage - I understand there are plans being made on both sides of the fence for a march, rallying, and demonstrations. I would deplore this, speaking as a long time resident of Buffalo. I think we can do this as individuals. I know there are meetings being called from time to time attempting to get white families and Negro families together ... to get a real solution to this problem .... as logically as we can. Thank you.

CHAIRMAN RUBINO:--Mirs Rita Pirrone, please.

MRS. RITA PIRRONE:--Mr. President of the Board, Dr. Manch, Board Members. I was hoping that our part would come after Mr. Heath's speech. Mr. Heath is representing the feeling of most of the people from the West side schools.

...

However, at the risk of sounding repetitious, I would like to say that the arguments to include our children in the Woodlawn Junior High School, we do not feel overshadow our arguments, and our arguments being still that of distance, still of safety hazards involved. We are talking, of course, about our children, one of the most prized possession of our lives, and we can not agree that our children should be taken from their neighborhood schools for the reasons stated and shuttled to a particular part of the city.

For over a hundred years the neighborhood districting policy has been used with much success and we can not see why we can not keep our children in our neighborhood schools. We sincerely hope that our appeal will be carefully considered. In no way is it our intent to harm other children or deprive them because of our reasoning. It is a simple matter of practicality in keeping our children near their homes where we have purchased in a vicinity where we want our children to go to these neighborhood schools.

I thank you very much for your attention.

CHAIRMAN RUBINO:--Mrs. Geneva Bryant of School 39

MRS. GENEVA BRYANT:--As I was coming to this building today, a man stopped me and said, "You are a bad guy." I said, "No, we are not the bad guys, we just want our rights as citizens." We are all concerned about the districting of Woodlawn Junior High School.

People are saying they don't want their children

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shuttled across the city. I think they are talking about riding the NFT. Well, I think this can be solved. I think the school buses could take their children to and from school. I am sure the Board of Education will see that they are taken to and from school.

Woodlawn Junior has to be integrated. This is the only way our children are going to have a good education, and we are not arguing about this. If there are white children in this school, we know our children are going to get the best of education. We as Negroes want to have the best for our children - the white people think we want to go to school or live in the same neighborhood just because they are white, but our feelings go deeper than that. We feel that a white child should know that not all Negroes are bad, and a Negro child should know that not all white people are good. There are good and bad in all races, but the people want to keep this school segregated ... shuttling their children across the city .... boost Buffalo - my good people, how did this City get this name - stop and think what these words mean.

MRS. FRANCIS ELARDO, please.

MRS. FRANCIS ELARDO:--Mr. President, I am president of the School 52 PTA. I am not here with a prepared speech, just here to express the opinion of the people in the area. They want to remain with the neighborhood school concept. Thank you.

CHAIRMAN RUBINO:--Dr. George Blackmon, please.

DR. GEROGE BLACKMON:--Mr. Rubino, members of the Board, I am George E. Blackmon, surgeon, and speaking, I represent no organization, but speak as a citizen of Buffalo interested in the education of all the children of Buffalo. The issue at hand, that of districting the new Woodlawn Junior High School, and I wish you to note that I said districting, not redistricting, is a very important one. It clearly separates the desegregationists from the segregationists. I wish to make clear what I mean by desegregation, and that is - to remove segregation. Many people make the error of saying that desegregation and integration are one and the same. They aren't. Desegregation means to remove segregation as stipulated by the Supreme Court, and integration means to bring together, mold together, and this comes by association and not through the courts. All I ask is desegregation.

The boundaries which are to be drawn for the school will determine whether segregation continues to exist as it does today. I have listened to many arguments against

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desegregation of this school, to quote, "That would end racial imbalance," and they all merely give segregationists a shield to hide behind.

Let us take a minute and look at the figures which were omitted by our daily press when given at a previous Board meeting but published in the Buffalo Challenger last week. On the junior high school level, the three schools with the largest number of Negro students have the following percentages of non-contract teachers: Clinton 70%, Fillmore 53% and Genesee Humboldt 46%. Now, no doubt some of the temporary and probationary teachers are very fine persons, but they can not handle the children - the report of the United States Commission on Civil Rights shows that they have fewer qualifications and far less graduate training. These are public schools for the children of Buffalo, New York. These are not white schools; these are not Negro schools. It is the responsibility of this Board to provide the best education for all children without regard to the prejudcies of their parents. This can best be accomplished by going forward with full desegregation of the schools of Buffalo. There will be opposition from the bigots, the segregationists, and the politically inclined, but as responsible citizens, we must not let this minority endanger the educational opportunities of our children. The term neighborhood school has become prominent in this discussion ....

The Woodlawn Junior High School was no doubt built at its present site with the idea in mind that the Negro students could be contained in that area. The proponents of this site had no idea that when the time for drawing the boundaries, that a social revolution would be in effect. It is no longer fashionable or desirable to exclude the Negro from the main stream of American life. Just as Americans we try to practice democracy and to train the young people for democracy, we will have to correct some of the injustices which have been inflicted upon the heart of the Negro. If this means a little inconvenience to the students by walking, then this must be. To continue segregation under the disguise of a neighborhood school, is purely harmful. These are public schools for the education of all the children of the City of Buffalo. We must be practical about this problem.

It was interesting to read in the Challenger the following statistics about Buffalo schools. Of the 32 administratave positions - staffed with one Negro. Of the 18 supervosrs, there are no Negroes; of the 15 high school principals, no Negroes; of the 20 assistant high school princip als, no Negroes; three junior high school principals, no Negroes; four assistant junior high school

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principals, no Negroes; 85 elementary school principals, no Negroes; 66 assistant elementary school principals, one Negroe; total 266 positions - 2 Negroes - 7/10 of one per cent. This is a very good record for one who is a proponent of segregation. It is very difficult for me to see how a member of the Board for 14 years can vote such a record... 266 positions, 2 Negroes. This is not by accident, this is intent, and schools which are predominantly Negro ...

MR. PARLATO:--Point of order, Mr. President. [illegible] as presiding officer, I know do not have t[illegible] right..... but other Board members could not sit back and see you as presiding officer so personally attacked. I request that after I point out that you should not let yourself be subjected to personal attacks, that you be given a point of personal privilege here to answer this highly personal attack. It is definitely out of order. Misguided thinking visciously expressed.

CHAIRMAN RUBINO:--Thank you, Mr. Parlato. I will stand on my record of 14 years and permit the community to make its own judgment. You may continue, Dr. Blackmon.

DR. BLACKMON:--Thank you. In the schools which are predominantly Negro, the statistics published by the Challenger show that expenditures per school are considerably less. For example, the expenditure in the 10 lowest is $95 per pupil less than in the 10 highest schools. Needless to say, the 10 lowest schools are predominantly Negro, and the 10 highest schools are predominantly white. For a Negro student to obtain an equal education, then, it does become necessary to sit next to a white child. If there were any intentions of correcting this situation by equal quality education in all schools, would it not have been done long ago? The criticisms of our Superintendent by the Board of Education last week clearly points out that his interests lie only with the children of the West side. I thank you.

CHAIRMAN RUBINO:--Mr. Dann Stevens representing School 30, please.

MR. DANN STEVENS:--Mr. President, ladies and gentlemen of the Board ofEducation. I am speaking as a member of the PTA of School 30 and I am also speaking as cochairman of the Committee to Preserve the Neighborhood School.

First of all, in listening to the preceding speakers, I would like to say that it seems to me that most of you are discussing segregation and integregation and desegregation on the basis that the Buffalo schools are segregated. This I heartily condemn. Our schools are second to none. I think there are schools where the balance - and we are talking about racial balance - is not

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what the NAACP would like, or that anybody would like, but this does not mean that we are running a segregated school system and, I will deny any such charge, and I will support Dr. Manch's attempt to run a good school system supported by this Board of Education. They are doing a good job, and are trying to do a better job, and you have dedicated people on this Board, and I do not feel that we should make integration an issue here where it doesn't really belong.

I can appreciate the feeling of those who would like to integrate the Woodlawn school in the name of integration, and as Dr. Blackmon has indicated, there has been something of a social revolution since the adoption of the Woodlawn site. Now, let's go back and look at the Woodlawn situation - how it arose in the beginning. In 1958 the site was being considered by the Board but not only by the Board of Education; it was also being considered by the Common Council. In fact, the Common Council held a hearing on the location of the site and on November 19, 1958, a petition was presented by a committee to eliminate Offermann Stadium as a school site, and this group filed a petition which included the following statement: That this site would result in a school filled almost entirely by Negro students. It went on to say that highest educational standards require that schools be built in the fringe area so that the school attendance would be biracial. The Common Council listened to this plea. The question was discussed of the district at that time, and it was decided by the Common Council, I believe unanimously, (I am not sure of the vote) - it was decided to adopt the site. It was adopted by the Common Council to approve the site. It was decided by the Board of Education to build the school on the site and there we have the Woodlawn school. And at that ti e there was nc consideration whatsoever of including the west side schools in Woodlawn Junior High School.

Now, if we are talking about junior high schools, let's not forget about the existing junior high schools. I haven't heard anybody complain about the racial balance in at least two of them. I think they have a good balance and I think the Board of Education deserves some credit for the location of them. If we are talking about giving credit for placing on racial balance, the record in Buffalo is good. Undoubtedly it could be better.

I was much impressed with Dr. Leighbody's statement - the statement of a professional educator - and I think it showed clearly that the statistics that have been published and will continue to be quoted don't show the true state of the facts. The deficiencies which exist in our educational system in Buffalo are the result of the same deficiency we have in other areas of city goverment and city service.

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There is one answer to the question and you know it, and it is money. If we had enough money for the Board of Education to do what they need to do, we could increase the quality of education in all of our schools. We would answer a lot of the criticisms as to overcrowded rooms, as to inadequate speech teachers, inadequate reading teachers, and we as an interested group of parents should get busy and get behind the Board of Education just as we should get busy and get behind the Police Department and get enough money to operate. This is a question of finances, it is not a question of integration-desegregation-segregation. I would hope that the furor that was arised around the Woodlawn School will continue to keep this group of parents aroused and interested in doing something constructive about the school system.

We have put on the desk of each of the members of the School Board a petition which we are currently circulating in all areas of the city. We have had requests from some school districts outside of our West Side schools which are immediately affected because they are interested in supporting our petition. This petition, we want to make clear, states as sincerely as we can our view on the subject. Our opening sentence reads:

> We are not opposed to Negroes attending school with children in our areas but do oppose displacement of our children from their neighborhood schools. We would support any reasonable and workable plan designed to achieve additional integration in the City of Buffalo in such a manner that it would not endanger the quality of education in our schools or drive into the suburbs substantial additional white familes, ...

This is a sincere statement of those drafting the petition - this is a sincere statement of the parents of the 45-52-38-56-30 who are supporting the petition.

What we have here, I think, is a lack of communication. I am sure that people of the Negro community doubt the sincerity of our position of being in favor of integration - not having any argument at all about our children going to school with Negroes; heavens, we go to school with all kinds of races and religions; color is just a matter of time before it comes. This integration of the neighborhood is not entirely a school function. The school can assist in this problem but you can not lay it all on the doorstep of the School Board and expect them to work miracles overnight, and we object to an unnatural attempt to integrate Woodlawn Junior High School purely for the sake of desegregation,

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integration, or whatever you call it. We feel that this problem can be attacked in other ways. We at School 30 have been fighting for years for a new School 30-16 combined which would incorporate an integrated neighborhood which by its very nature would incorporate an integrated student body.

We have some other thoughts that have come up in an attempt to make a use of the Woodlawn Junior High School which would perhaps avoid any problem on the question of discrimination-desegregation. We thought that perhaps the Woodlawn Junior High School, with its marvelous facilities - this is probably the finest existing school building in these United States - not just Buffalo, New York, but these United States, and we should be proud of our Board of Education and our City for what they have done for us. Now, let's make good use of it - we feel that perhaps you could have a junior high school for gifted children, drawing from all over the city, setting a standard I.Q. or other test which would provide a certain minimum standard, give good teachers, give good facilities, and we could have an educational facility of which we as parents in Buffalo Could be rightfully proud. This could be a showcase of education for the nation and we would not have to talk about integration because it would not be done on the basis of color or creed or anything else but be done on the basis of ability.

We submit this could be a great thing for education in Buffalo and would allow a better communication between the parents of people from all parts of the city and if we can increase communication between parents of various areas, I think we will have done a better job for our city. My one question on this type of proposal - what happens to the parents and the children who are in the overcrowded schools at 8-74-16-17-53 who have been counting on going to that school because that school was planned and laid out to take care of overcrowded conditions. If they are truly interested in having a school in their district, perhaps they would not go along with this idea but it is a thought that we submit.

Thank you very much.

CHAIRMAN RUBINO:--Reverend Ifill, please.

REV. O. URCILLE IFILL:--Minister of the DeLaine Waring AME Church. I would just like to do a little backtracking here. I have in my hands an editorial from the Buffalo Challenger of June 5 and June 12 concerning segregation. Representatives of the New York State Congress of Integrated School Branches met with the New York State Commissioner of Education on November 13, 1956 urging the adoption and implementation of a statewide policy on

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existing segregation in the public schools. A state conference of December 5, 1956, submitted a memorandum to the Commissioner of Education reviewing the existing problems and again urging that an official state policy be formulated.

Early in 1957 the New York State Board of Regents which is established by the State Department of Education, established a division of cultural relations directed to the problem raised in the meantime. The Board of Regents of the University of New York, on January 28 adopted a statewide policy declaring the psychological and educational undesirability of public school segregation in fact, and appointed a central advisory committee to formulate recommendations for action. Thus, New York became the first state to recognize the problems inherent in public school segregation in fact. The New York State Commissioner of Education on October 1, 1962, announced a similar policy. The Commissioner stated a number of communities have in fact some schools which are desegregated. This condition must be of great concern to all school administrators because of the statement that segregated schools are detrimental psychologically and educationally to the students in attendance. Within the Department we will initiate the careful policy to regulate ..... Where corrective policies or procedures are called for, we will adopt them. When we feel changes of present ways are necessary, we will change.

On October 24, 1962, at the regular School Board meeting, the Board of Education was urged by the Buffalo Branch of the NAACP to fulfill its educational and legal responsibilities by entirely desegregating the school system.

The NAACP Special Assistant for Education, charged extensive violation of the May 17, 1954 decision of the United States Supreme Court and the official policy of the State of New York, and stated that the Buffalo Board of Education maintained the largest number of segregated schools in any New York school system except New York City.

Now, no responsible person looking objectively at our present situation and wanting to do all in our power of establishing a good racially balanced education for all our children, consider the problem we face today as easy, or of immediate solution, but I state unequivocably that it is the moral duty of this Board to acknowledge awareness of this problem, to state definitely what its policy is and what steps it has taken to correct this problem. Much of the confusion that exists in our community is because of the lack of this avowed stated policy of our Board of Education.

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Many persons, both Negro and white, opposed the location of the Woodlawn Junior High in its inception. However, I can not help but feel, as a Christian clergyman, that Woodlawn Junior was located at its present site for such a time as this -- with brand new boundaries to be drawn -- we have here a wonderful opportunity here in Buffalo to show not only to the rest of the state, but the rest of the world what the wideawake, conscientious and progressive community can do to make democracy work not merely by word and ideals and attitudes, but by positive and courageous action and the will to face constructive change for the ultimate good of all of our children. Thank you.

CHAIRMAN RUBINO:--Dr. Fred Crawford, please.

DR. FRED CRAWFORD:--Mr. Rubino, Board members, parents. I did not come here with a prepared speech to present to you. I was going to talk a bit on different things but Woodlawn Junior High School is the ultimate thing.

My going to an integrated school or mixed school helped me. Speaking as a parent, I know each and every one of us want the best for our children. I do not care what anyone says - if you do not get a chance to get out and get views from others, you do not progress. The lady spoke about having neighborhood schools which we have done for a hundred years - that is the trouble with Buffalo now - we are 50 years behind the times. If we do not progress, we must regress, and if we do not keep up with the foreign countries, we will lose out. Education is the basic.

I am a parent of five children and I know I want for my children more than I got. I want to mixed schools and my children must definitely go to them because if you go to a racially unbalanced school you do not get an education, but by going to an integrated school -- I had to get the instruction presented - so when you have racially unbalanced schools - I don't care what no one says - they are going to slough off - it has been proven.

Speaking of contract and non-contract teachers - if they have nothing to look forward to, I don't care, they have to be awfully dedicated to give their all if they know they are not going to have a job, it is humanly impossible to give your all. My being a doctor, sure, I work on people, but if they are going to pay for it, that would help me better. You have got to get something from it. Educationally you want something - you don't have to get it monetarily but you have got to get something. Being able to attend mixed schools, you know you are getting something. You are looking forward to it so we really want Woodlawn Junior High integrated. That shows

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that you are going to progress, you are not going to regress. In Buffalo, now we must produce; we have got to produce - located where it is, and with everyone looking at Woodlawn Junior High School .... I have visted other areas and they say, what a beautiful school. They would like to have their children here in Buffalo - so you know what we have here — we must go ahead and have an integrated school.

You speak about transferring students by bus, children are able, after the age of 12 I am sure, they are ready for junior high school - it is nothing for them to cross an area, a street, and I don't see where there is anything - any problem of their going from the West side - even here they must go from one area to Fillmore Junior High School. So, I am sure everyone wants the best for their children and that will only come by having an integrated school. Thank you.

CHAIRMAN RUBINO:--Mr. Frank Annunziata, PLEASE.

MR. FRANK ANNUNZIATA:--Dr. Manch, Mr. President, and School Board., I am a student at Grover Cleveland High School, and I am here because it seems that everyone has neglected to get the opionion of the student himself. The neighborhood school - I asked my friends - what does this mean - the neighborhood school is set up to educate the children in the existing neighborhood. From experience I know that in the neighborhood school the teachers, after a short while, become acquainted with their pupils. They tell their children about excavations, or work being done in that area - be careful when you cross - they are well known in that area.

In such a big city as Buffalo, we have many cars - very much traffic - congestion everywhere. Expose a child to the unknown and there is to be danger. In my house, even though I am 17, if I so much as go round the block, my mother watches me - phone number - where are you going - so we say, why must the parent suffer. We must not forget that the neighborhood schools were set up to serve the neighborhood children so in summing up, if we send our children somewhere else we shall defeat our purpose. If we defeat our purpose, we defeat the will of the people and in doing that, we defeat ourselves. Thank you.

CHAIRMAN RUBINO:--Dr. Hayward.

DR. ROBERT B. HAYWARD, Minister, Lafayette Avenue Presbyterian Church.

Mr. Rubino, members of the Board, I am here as a minister of a West side church who has taken action in

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this regard. I speak not as an individual but as a Moderator of the Session which, in terms of a laymen, is the duly constituted representative group elected by the Congregation to act in its behalf. At an action taken a week ago today we unanimously adopted the following statement which I would like to incorporate in the record so that we might be able to better understand the reaction of the people who live on the West side.

The question of who should attend Woodlawn Junior High School presents our community with an opportunity to take a bold step forward in education and in racial relations which could lead our city toward a creative solution to a problem which plagues our land.

Lafayette Avenue Presbyterian Church is directly involved in this question, not only because it is located between School 56 and 30, but more important because it ministers in its weekly program to more than 500 youth from the area. The governing body of our church, the Session, therefore make the following recommendations:

That we encourage our community to support healthy integration.

That if the Woodlawn Junior High School is to be integrated that it be done in such a way as to assure a continuing balance which does not exceed 40% Negro students.

That the community and the city fight with every possible resource failure to achieve such a balance because it undercuts both education and healthy integration.

That the Board of Education and the local government meet the reasonable concerns of parents as to distance, cost, safety and quality of education.

That while it is still possible for cooperation, a qualified representative Commission be established to study the general underlying problems of our public schools as evidenced by the Woodlawn situation, and to guide the Board of Education and the city on the deeper implications of integration and quality of education for the future of our city.

That the Board of Education make public in detail its past and present strategy and its

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long range plans for the Junior High School system.

Thank you.

CHAIRMAN RUBINO:--Mr. Salvatore LiBerti

MR. SALVATORE LIBERTI:--Dr. Manch, Mr. President, and also members of the Board. Again I say I am surprised very much at the way this is being conduct, this meeting, because I speak for myself and I am sure that the majority of the people on the West side are not fighting integration because our schools are already integrated. There are colored children in our schools and that is not our point. We are not fighting integration; we are fighting as parents and as taxpayers who pay taxes toward the support of the school system in Buffalo. That as parents, if we do not guide the children, who else is going to guide them? Our protest is crossing the most hazardous streets in the City of Buffalo today at the most hazardous hours of the day between 8:00 and 9:00 in the morning and 3:30 and 4:00 in the afternoon and look it up in your Bureau of Accidents and you will find the statistics that they our most jazardous streets and the most hazardous hours of the day for the children of the West side to be crossing.

Now, just two weeks ago we lost a relation of ours, a boy 15 years old, now he's 15, and killed in the Kensington area in front of his home. What are these children going to do crossing these streets. Main Street, Michigan Avenue, Delaware Avenue, Elmwood Avenue, and Ferry Street, and those are the most hazardous - streets most hazardous at the most hazardous hours of the day, when the children go to school and when they leave.

Now, I also want to state, with all due respect to the clergy, and I will also say the priest, because I am against it. This is in reference to Dr. Cantillon. Dr. Cantillon ....

CHAIRMAN RUBINO:--I am sorry, Mr. LiBerti, I will not permit any personal references to anybody. You may speak on the question of Woodlawn Junior but I will not permit ...

MR. LIBERTI:--This is in reference to a statement Dr. Cantillon...

CHAIRMAN RUBINO:--I will not permit any personal references made to anybody... I am sorry but I will not permit personal references, you can speak on the subject of Woodlawn. You may continue, Mr. LiBerti.

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MR. LIBERTI:--So getting back to Woodlawn Junior High, is it not a fact that former Councilwoman Cora Maloney supported that school? Is it not a factthat that school was also built for theEAst side. I am not mentioning color because I am not interested in color. I am only interested in my child not crossing those streets and if I don't fight for her who is. I still say I will refuse to send my daughter there on that basis . I will make her report to her other school in September and if they refuse her it isn't that I am refusing to send her to schod but I refuse to send her, which I clocked on my automobile, one mile and six tenths on the speedometer and this is the shortest distance they walk coming from Woodlawn School to my home.

Now we will go into the people that can't afford it. How many of these people are under the $5,000 a year income bracket and have six and seven children and have the added expense of packed lunches and car-fare-going to be an expense along with the tax bill or the electric bill, the gas bill. All people are not fortunate enough to go above the $5,000 bracket. Let's think of those people. Why put it all on the Welfare Department. They've got enough on their hands without putting some more on...Again we go back to the money. If you want to do something, give the teachers a raise because they are the ones that deserve it and they are not getting the credit and respect that is due them.

I thank you,

CHAIRMAN RUBINO:--Mrs. Killinger, please.

MRS. RICHARD KILLINGER:--I think it is a little out of place that I speak right now because I am not speaking about the Woodlawn School but I too was upset, as Dr. Manch said, about reading about our schools in Buffalo, and I do feel that everybody here should know more about their own schools and our other schools. I was appalled at this late date in the year that there are still parents who do not realize some of the programs that are being conducted in school. I wonder if your children don't even talk to you when they come home from school. Isn't there any communication any more. I want to make an announcement about a very fine science project that is being held this week in the School 66 which is located on Parkside Avenue and Tacoma. There will be meetings and a science fair this evening; the doors open at 7:00 o'clock. I would urge everyone of you sometime between 7:00 and 9:00 to stop in at the science fair which is set up in the outside hall and you could make a study of some of the wonderful things that are being done by our 4th, 5th, 6th, 7th and 8th

graders. These are topics that are done by the youngsters at home. They were stimulated through their school work and the teachers inspired them to this kind of thing. These are extra projects. This school is not unique. This kind of thing is done in many of the Buffalo Public Schools so before you make any public statements or write any letters, won't you please get to know your schools better.

CHAIRMAN RUBINO:--Mr. Raphael DuBard, please.

MR. RAPHALE DU BARD:--Mr. Rubino, Board members, my name is Raphael DuBard, National Association for Advancement of Colored People, Education Chairman. I have been listening here very attentively to several things that have been going on and it seems to be annoying me just a bit.

First of all, I would say that the predominance of Negro children attending Schools 16 and 17, and for the information of some of the people on the West side of Main Street, they are so there is some involvement in terms of crossing the most hazardous street in the City of Buffalo. There are only 353 steps from Main Street to Woodlawn Junior High School which is not a great deal of steps but .... Some emphasis has been placed on this revolution which has just started in Buffalo. For your information this revolution started in 1909 - it is just a matter of Buffalo just becoming aware of the fact that this has been a revolution. A suggestion has been made that there is no money available for school which I agree with and we did go down to Albany last week in the awful weather - it took us about eight hours to get there but we were there - appealing to the Governor and to the legislators, asking for additional funds for education because we know the serious needs in the City of Buffalo as well as other areas.

I do, however, object to another statement that was made, vehemently, because I think it is objectionable, and I am hoping I am wrong in this assumption. The gentlemen said that "we do not object to Negroes going to our schools." Certainly, in my judgment, the schools in the City of Buffalo are public schools; they belong to everyone, and when I get this impression, I get the impression that this is a separate thing; this is special, and I don't like that connotation. I hope I am wrong and I hope the gentleman who made the statement, makes some corrections and I think he should present it to the Board of Education.

Now, along with those observations which I just had to say, we are emphasizing once again our position

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that a racially imbalanced school is harmful both to Negro as well as white children and if we are going to correct this imbalance we must begin now. When the decision on this problem was rendered by the Corporation Counsel's office it brought to mind a statement of last year issued in a press release "Is Buffalo worse than Birmingham?". Of course, in referring to the Corporation Counsel, this has to do with racial imbalance. It means that in spite of the United States Supreme Court's decision in 1954, and in spite of the State Supreme Court's decision in Brooklyn March 10, 1964, when it ruled that race can become a factor in drawing boundary lines, that this city of "Good Neighbors" subscribes to the "separate but equal theory." Did you not think that when the Board of Education permitted optional transfer privileges for students at School 17, they did not know that the white parents would accept this offer and transfer their children elsewhere. This item is not accidental but appears to project a feeling of inferiority and unwantedness thus stigmatizing the school of which the Negro attends. Our democracy was founded on several expressions of freedom ~~that~~ but when a Negro attempts to exercise only one of these freedoms, he is is harassed, condemned, threatened and in some cases murdered because he dares to be heard. We are citizens of this country and we are demanding our rights as Americans. Thank you.

CHAIRMAN RUBINO:--Is there a representative from the Council of Churches? I don't have the name.

REVEREND HOWARD FULLER:--Mr. President, members of the Board, I am authorized by the Program Board of the Council of Churches of Buffalo and Erie County which Board is authorized by the member churches to speak on issues of the moment, and this is an official statement. It is made by these churches at this time. I am Rev. Howard Fuller.

In order to ensure a sound education for all children, both in academic subjects and in democratic living, we urge the Board of Education of the City of Buffalo to adopt the following policies:

I. That it be the stated policy of the Board of Education to take any and all reasonable and practical steps to achieve and preserve a stabilizing racial balance (that is, one reflecting the racial balance of the total public school population of the City).

II. That it be the stated policy of the Board of Education to give special treatment to schools with special problems and poor achievement records, by saturating them with extra services and quality teachers.

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We further call upon the Board to take the following steps toward the implementation of these policies:

Adopt a master plan for Junior High Schools, ensuring that they will have a racial balance favorable to the education of all children.

Provide various incentives for teachers in elementary schools in census tracts where the median annual family income (1960 census) is less than $5,000 for the purpose of quality education.

Provide a substantial amount of additional pupil personnel services and special teachers at all elementary schools in census tracts where the median annual income per family is less than $5,000.

The Real Issue at stake establishing the boundaries of the Woodlawn Junior High School is the question of integration. The Council of Churches of Buffalo and Erie County has consistently gone on record in the moral and religious conviction that the best public education should be provided in order to prepare all children for their lives as responsible citizens of this country. This means that we should work towards stabilizing racial balance, (that is, one reflecting the racial balance of the total public school population of the City) not only because it is morally right, but additionally because it has a positive social and educational value.

Therefore, the Council of Churches of Buffalo and Erie County urges the Buffalo Board of Education so to draw the boundaries of Woodlawn Junior High School that this school may reflect the racial balance of the total public school population of the city.

We shall work diligently, Members of the Board and Mr. President, work diligently with other citizens and groups to support the Board of Education in efforts to secure adequate funds for the best possible public school system for all children.in our community.

Thank you.

CHAIRMAN RUBINO:--Ambrose Lane, please. ((No appearance)

Mrs. Vito Vacanti.

MRS. VITO VACANTI:--I represent myself here but I am from School 45 .....I sent a letter like this to all members of the Board and Dr. Manch. I will read it:

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First, last and for all time being a free American citizen I ask, "What price must be paid to preserve our Civil Rights, our God given dignity and above all our American democracy?"

Pros and cons have been coming from everyone as to this controversial subject -- integration. I have studied both sides and ask in all honesty, what really is the problem? We in Buffalo are an integrated society. We have never been guilty of atrocities against the Negro. We have given them equal opportunities along with our own children in schools all over Buffalo. If all Negroes do not take full advantage of the opportunities given, why then are whites to blame? Why is it mandatory that a Negro child sit next to a white one in exact percentages? Are they, themselves, saying they are so inferior that they need the uplifting of a white next to them - they cannot exist and progress on their own? This is an absurdity.

Really, this is not our Negro citizen of Buffalo crying out, but rather Negro organizations, inciting racial unrest in our peaceful city where once only harmony reined. How can people like Mr. Easley, head of the Buffalo Chapter of the NAACP ...

CHAIRMAN RUBINO:--I am sorry, we will not permit any personal references.

MRS. VACANTI:--Well, we will leave that out. How can anyone say the children of Woodlawn would receive an inferior education if the school is not integrated? With a $3,500.000 school at their disposal, what is the problem? Surely, it cannot be that the equipment is inferior. Why then?

As a mother of a child who may be forcibly sent to Woodlawn Junior High School just because he is white, I ask, "Just what are my child's Civil Rights? Has anyone the right to tell a free-born American he is a statistic who must sit next to a Negro or a free-born American Negro he must sit next to a white child to achieve something he already has, equality? Inferior education is not a condition brought about by the imbalance of color in our schools, but by the imbalance of the budget in our school system.

The bullying tactics of certain organizations are abhorring, and I challenge anyone who infringes on the rights of any American citizen. If they are allowed to continue on their present course, soon our peaceful city, I am afraid, will become as racially torn apart as Little Rock. My heart aches for the little children

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involved in this color race, and after all they are only children being used as a means for them to achieve a questionable goal which only a minority's minority seeks. They are being laid on the chopping block, being made the supreme sacrifice of putting their little lives in jeopardy on our busy streets, in an undesirable neighborhood totally out of their own, just because a few misguided people who have grouped together deem it must be.

The Bill of Rights belongs to all Americans and when one group infringes on another's rights, white or colored, the Democracy of our beloved country is tottering, and we should all sit back and reflect because after all, color is only skin deep.

CHAIRMAN RUBINO:--Mrs. Jack Watts of School, please.

MRS. JACK WATTS:--I am Mrs. Jack Watts, President of the PTA of School No. 8.

May I say, also, that my prime interest in this situation lies in the fact that I have five children in the Buffalo school system.

...

Dr. Manch, Mr. Rubino and members of the Board, on behalf of the PTA of School No. 8, I am presenting the following statement:

In view of the fact that there has been much discussion lately of the use of inferior teachers, we of No. 8 would like to repeat what has always been our feeling. We have not and do not imply that teachers are inferior nor does the word reflect on any individual teacher or administrator. However, we do maintain that the quality of education in the predominantly Negro schools or all Negro schools is not good. We base our opinion on the fact that predominantly Negro schools are always those schools that are psychologically and educationally unsound because these students are separate and apart in effect. We feel that the children in these schools are being deprived of social background and these are the children who, because of society's convictions, should be getting "good, quality education." Teachers in these schools should have sufficient quantity of educational materials to work with. Conditions on an over-all basis should be conducive to learning for these schools definitely present a challenge to their teacher. We also feel very strong that for children to emerge as citizens of liberal thinking, Negro and white children must be given the opportunity to know one another. Due to the neighborhood situation, the best place to accomplish this purpose is in school.

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However, if we are to haggle over the Woodlawn Junior High problem for the next five years, I am of the opinion that the proposed alternative to consider Woodlawn as a school for gifted children is worth consideration by both the Negro and white communities involved and by the Board.

You have our grestest respect, members of the Board, and may the outcome of your decision be for the good of all children of the City of Buffalo. Thank you.

CHAIRMAN RUBINO:--William Turner, School 30. (No appearance)
Lennie Glover of the Urban League

LENNIE W. GLOVER:--My name is Lennie Glover, Associate Director, Education, Buffalo Urban League.

Mr. Rubino, Board Members and Dr. Manch, we recognize that the long established patterns and community customs are not easily changed and that they have great psychological and sociological implications on all factors of the issue that is now before you.

The threat of the neighborhood school concept, mass demonstrations, and the threat of parents moving to the suburbs, school boycotts, and so forth, are issues that must be faced up to with tremendous urgency.

If community patterns, customs and other forces in the community are going to obstruct the implementation of basic democratic values and ideals, we ask that the Board of Education rededicate themselves to these basic democratic ideals and values. We urge that your decision be within the walls that will not create misunderstanding nor heighten the barriers that now exist. We also urge that your decision be in conscience with the United States Supreme Court decision of 1954 and within the confines of commissioner's Allen's directive and exemplify patters of equitable distribution as proposed by Dr. Lydia T. Wright.

It is our fervent hope that your decision on the boundaries for Woodlawn Junior High School on March 26, 1964, will reflect a devout commitment to democratic principles and values whereby all children of varying racial, ethnic and cultural backgrounds may profit from acquaintance with others, develop mutual respect, and a cooperative relationship in this world that we live in today. Thank you.

CHAIRMAN RUBINO:--Mr. Richard Heath, representing the Committee to Preserve Neighborhood Schools.

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DR. MANCH:--Mr. Rubino, before we go on could I ask Mr. Glover one question.

You have read a statement - and this is without an inference as to what I think of the statement - but just for the record - does the statement of the Buffalo Urban League .. do you have the approval of the Board of the Buffalo Urban League for this statement you have just made?

MR. GLOVER:--No, I do not, Dr. Manch but this thinking is within the confines of the Urban League philosophy.

CHAIRMAN RUBINO:--All right, Mr. Heath.

MR. RICHARD HEATH:--My name is Richard Heath and I am Chairman of the Committee to Preserve the Neighborhood Schools.

Mr. Stevens, I think, has already gone into some detail of our position here. I would just like to reiterate one statement which he made, namely, the West side is not opposed to integration. I think that is illustrated most strongly by the fact that we have thousands of people signing the statement which starts off by saying "We are not opposed to reasonable and workable integration."

Now I would like to go on from there. I think there has been a lot of unrealistic statements made here today. The basic facts now, especially with the opinion of the Corporation Counsel, Mr. Saft, are these:

Woodlawn was put in the wrong place for effective integration. That was brought to the attention, as Mr. Stevens said, of both the Common Council and the Board of Education back in 1958. At that point, for reasons which I am sure were good, they went ahead and built it there so we have, basically, a school that was put in the wrong place.

The second point I would bring out is that namely, having been given the opinion of your legal adviser, Mr. Saft, it is not possible to have effective integration at Woodlawn Junior High School. In other words, whether they thought that opinion was right or wrong, as I see it, the legal adviser of the Board of Education has now told you that you cannot get a racial balance and by a racial balance I mean perhaps 60% white - 40% Negro in Woodlawn Junior High School. So, let's be realistic. The only thing that legally could come out of this now would be token integration - possibly a minority of white, perhaps 56 and 30. I am not even sure that is authorized under Mr. Saft's opinion, but the only thing

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that can possibly come out of this is that if you try to integrate Woodlawn by drawing district lines, would be for a minority of white children, and neither the people on the West side nor the Negro leaders want that.

So, I would suggest for the consideration of the School Board and the professional educators here today, such as Dr. Manch, why don't we move on, recognizing the basic fact that so far as effective integration - and that is 60-70% white - at Woodlawn is concerned, that is no longer practical since Mr. Saft came down with his opinion, and I would suggest that the Board perhaps consider the suggestion that Mr. Stevens advanced, or some other suggestion that would work toward integration which we all want on a reasonable, practicable basis and which might be achieved with the suggestion of Mr. Stevens, and that was that we try to take this junior high school and on a voluntary basis make it a school for gifted children from all over the city - build it up on the junior high school level perhaps something equivalent to what they havein New York on the senior high school level, which is the Bronx High School of Science. It would be a wonderful thing, I think, for people of all races, if the future leaders, and the gifted children would be,in most cases, the future leaders, could go to one school .... and that school would be an integrated one and that school would be something we could be proud of not only from the integrationist's point of view, but also from the fact that we would have a high tupe facility to develop and build with our gifted children.

If the Board does not see fit to do something like that, perhaps the best thing to do is to promote effective integration in the neighborhood where the Negroes and whites adjoin, and I would again reiterate the suggestion that has been made here and has been pushed for by School 30 for a long time - that you build a new school - combine 16 and 30. Now, if you would do that, you would have automatic integration and children could be starting kindergarten, white children going to school with Negroes, which I personally think is a very desirable suggestion.

Thank you very much Mr. Rubino.

CHAIRMAN RUBINO:--Mrs. Robert Lee, please.

MRS. ROBERT LEE, JR.--Ladies and gentlemen, I represent Alpha Kappa Alpha Sorority but I would like to preface my statement with this.

I should like everyone present to know that I find myself in a situation totally alien to my personality and my beliefs. It is incomprehensible to me that such a statement as I shall give is even necessary in a country

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dedicated to the dignity of the individual and the equality of man all over the world. It is inconceivable to me that there are people who will contribute to a.d support anything that will benefit other human beings, fight for, yes, even die for the noble principles of equality of people all over the world, and still bitterly oppose and deny the same to fellow Americans.

Because of this, I am compelled to speak regardless of how incomprehensible and inconceivable the matter is to me.

Mr. Rubino, members of the Board, Dr. Manch, Gamma Phi Chapter of Alpha Kappa Alpha Sorority strongly urges the Buffalo City Board of Education to accept Dr. Lydia Wright's proposal for attaining and maintaing a racially balanced student population at the new Woodlawn Junior High School. Those who are against this proposal and for any other just means for improving racial imbalance in our schools strongly proclaim that their arguments are not based on the racial controversy. Rather, they assert that they are advocates of the neighborhood school policy with all its attendant conveniences.

My fellow Americans, it is painfully clear that the neighborhood school pattern perpetuates segregation because of segregated housing. Public schools segregated in fact can no longer be excused or accepted as the inevitable result of the housing pattern. School officials have a direct responsibility to re-examine the racial composition of their schools and to eliminate existing and attendant segregation to the fullest extent possible. Segregation, whether innocent or intended, is harmful psychologically and educationally to all children - white and Negro. The damaging impact of segregation is then heightened by grossly inferior standards. Here I am not casting aspersions on the fine teaching and administrative staff, nor do I intend to categorize the inequities of a so-called separate but equal system. I am referring to the very low standards of citizenship, moral responsibility, the preventual attitudes, and the superiority and inferiority complexes that will be instilled in our children - black and white. ..... their parents have obliterated for them an integral part of the American dream.

The solution to the problem before this Board is to engineer a desegregation program so that the racio of the people is maintained in such just proportions that the weight of members of one group does not constitute a threat to the other. When we can agitate editorially 50 mile hikes and strenuous physical fitness programs, it seems paradoxical that we should so degrade ourselves by using a 1.6 mile walk or bus transportation as quibbling weapons.

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Re-examine your attitudes fellow citizens. Insist upon a fair solution that will enable you to face your child and yourself. Remember that it demands a certain heroism to face oneself or do the right thing - more people would be free to do that if we could awaken in the communities of our city a moral climate in which the individual mind was less penalized and the popular mind less adored. Thank you.

CHAIRMAN RUBINO:--Mrs. Elizabeth Smith.

MRS. ELIZABETH SMITH:--I intend to make a statement that is personal in character.

Members of the Board of Education, Mr. Rubino, and Dr. Manch. My. name is Mrs. Elizabeth O. Smith. I live at 592 Breckenridge Street on the west side of Buffalo in School 56 district. I might also add, I live in the State of New York, in the country - United States of America, and in the world.

It seems to me that what is needed in these changing times is a flexible attitude: when what was true yesterday is no longer true today. We need at the same time something quite different: the tenancious holding to an ideal of humanity, of sticking together. And to my mind the unchanging ideal must necessarily include the integration of the Negro and white races. I agree with Dr. Manch when he said recently - quoting Commissioner Allen of the New York State Schools, "It is no longer a question of whether or not to integrate. The questions is - how."

Parents reacting here emotionally two weeks ago against integration, are some of them now a little ashamed? I feel that I have been fortunate to have been exposed, or to have been able to expose myself, to the changing facts of integration: the March on Washington, a wonderful experience with a people friendly and self-disciplined. Parents for School Integration, an inter-racial organization of parents meeting bi-weekly about school problems; and now, in connection with the Woodlawn issue - the NAACP.

Now that I am not alone but am together with others inter-racially, the possibility opens up sound thinking, less conflict, and some other human ideals - hospitality, conscience, and human dignity.

Woodlawn Junior High School may be either a symbol of Buffalo's intention to integrate or not to integrate. This is because it is a new school. It was so described by the representative of the United States Civil Rights

Commission who recently came to Buffalo to study our school system. He referred to the new junior high schools as opportune places in which to undertake a policy of deliberate integration. De facto segregation does not exist there because nothing exists until we creat it. We must make it a symbol for integration.

What do we mean by "for integration"? Nothing less than 60% whitepupils to 40% Negro. I too, like you, was surprised to learn from Negro parents in our organization, and this group, by the way, is open to all - that they were not interested in having a majority of people of their own race, as you or I might. On the contrary, they knew it was fatal. In actual reality, they told us, whenever there is more than 50% Negro, it soon becomes virtually 100%. And this they wish to avoid at all costs. As intelligent parents, who care most for their children, they do not want their schools to go down hill. That under such circumstances schools do actually go down hill has been established by such studies as Dr. Swanson's of the University of Buffalo. The top ten in Buffalo are the white, the bottom ten are the Negro. Or take the figures given by Dr. Lydia Wright at the last School Board meeting, of percentages of temporary vs permanent teachers, teacher with more training vs teachers with less training, or per capita expenditure per pupil in the all Negro and in the other schools. These Negro parents told us also of poor equipment, absence of library books, poor teaching in some cases, and ppor attitudes on the part of administration in all Negro schools.

The parents in favor of neighborhood schools dislike the sliding over into de facto segregation which comes when there are too many Negroes in one school. We dislike the same thing. Why shouldn't they work with us for the 60-40 integration, and a school department policy which will insure the continuance of this. Why shouldn't we together stand back of this policy until it is adopted. Many are beginning to see this. But some are afraid and want to stand still. They should seek the spirit of confidence we found under President Kennedy - not to negotiate through fear - not to fear to negotiate. Let us speak to the Board of Education with confidence that they will find a plan of integration that will succeed.

Some of our fears with regard to sending our children to Woodlawn will be answered by the good will which will result from successful integration - marauding children attacking your child for instance. The good will that comes from having them side by side in good public schools, better than what we have today, will protect them. School buses are a possibility. Dr. Manch stated at the last meeting that in special cases we get reimbursement of 90% and that, I believe he said in this case we would probably receive 100%.

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Certainly we know that Commissioner Allen is interested in this integration problem. The children themselves are no longer babies at junior high school age. We must not compare these distances with those of the primary school itself. Busing itself is nothing unusual for children even much younger in the rural areas and in prvate schools. All we need is the proper orientation as to why they are going. The good will values which will have so much more in them for children than even the most skillful social studies courses. We must be aware of these fears. The harm they might do is inestimable if we do not check them. For surely it is impossible to imagine integration among unwilling groups.

We might get even better schools than we have today, for we have been asleep to the fact that we have not had the best. Fiscal policy has resulted in making us 105th in 105 in western New York- $150 more per pupil per year would give us for every school the level which is now possible only in pilot projects. And this amount of money spent only brings us up with the average. We are asleep at the switch. We need something like this to awaken us to the cuase of public education. I suppose we are aware of the city council diverting funds from that purpose when New York State has allocated us special funds. If we negotiate from confidence and not from fear, citizens and School Board together can raise up our schools to a brighter future.

Is it too bad that the privileged West side has been hit by this predicament?

(Interruptions from audience)

CHAIRMAN RUBINO:--I would appreciate it if we kept the same fine decorum we have shown this morning. We have three more speakers and I would appreciate it if you would keep this same fine decorum.

MRS. SMITH:--But is it a predicament? It is a challenge. The privileged West side knows what hospitality is. These people- the Negroes - want to be friends with us. This is their country. Since their ancestors were slaves they have been cut off from any previous culture. Their culture is our culture. They are working harder at it than we. Perhaps they may pass us by if we don't watch out. At least we can learn from them side by side. And we can have the honor of offering them hospitality - sharing with them the material privileges which are ours. Who can turn down a person who wishes to be his friend?

They are angry at us? How do we feel when we are spurned by somebody in our feverish effort to keep up with the Jones? We behave proudly, arrogantly, we retaliate,

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but we still wish to be right up there with the Jones.

CHAIRMAN RUB NO:--I think you have taken well over the time limit....

MRS. SMITH:--I knew I would - I will hurry through this.

But aside from understanding them, what about this keeping up with the Jones? Is this really the last word in human behavior, when it makes us so anxious to tie in with a prestige school in a set-apart neighborhood that we can't see the joy in hospitality, in Americanism, in welcoming the newcomer and the would-be friend? Maybe we had better take another look at this keeping up with the Jones. Maybe we had better find a way - the way of cooperation. And if we refuse to move now, while state, nation and the world itself is moving, we will be building up hatred which will block us and box us in.

Legality? The soberest and most conservative will admit that there is law on both sides. The provision of the State Education law was to prevent segregation. To use it for preserving and entrenching present defacto segregation in city schools is questionable law. We do not expect law properly interpreted to be illogical and self-contradicting. As for the Buffalo Corporation Counsel's opinion - I was at the Board of Education meeting last time when Mr. Rubino stated, and Mrs. Slominski agreed, that it was to be considered only in the nature of advice.

I therefore would urge the Board of Education to carry out the policy two years ago promised the Negroes of this city when they picketed the ground newly broken for Woodlawn, fearing that by the nature of its location it would be segregated. The promise that it would be an integrated school. The time has come for the Board of Education to carry out this policy initiated by Dr. Manch in a statement at least, and too long delayed. I earnestly hope that the School Board will with all deliberate speed make the necessary zoning of Woodlawn to make it a 60-40 racially balanced school, using approximately the suggestions in Dr. Lydia Wright's plan presented to that Board.

CHAIRMAN RUBINO:--Mr. Donald Jackson.

MR. DONALD JACKSON:--I will deviate from my speech a little bit here. We are concerned with Woodlawn Junior High School .... we all want integration - I want integration - but I think we should not throw people around just to see one school integrated. In fact, there are no Negro schools in the City of Buffalo. There are schools where the majority of Negroes is greater, but there are no schools that are 100% Negro.

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But, at the outset ... in Woodlawn Junior High Schools, it seems everyone desires to get into the picture. Many of them will not want their children to go to this school and many of them never will have to go to this school, but they all want to get into the picture ... and then they will tell the educators how to run the school .... to solve the problem of Woodlawn Junior High School there should be open enrollment where every student would have the right to attend that school. There are a number of white people who have expressed a desire and there are thousands of Negroes who will desire to be in that school. People should be able to attend the school in the neighborhood first and then if there is available space, others who desire to come in should. We should not attempt to integrate just for the sake of integrating because there are not enough Negroes to integrate all the schools in the City of Buffalo on a 60-40% basis. The population shows that the Negro population is only 11% of the total population of the City of Buffalo so it would be impossible to have enough Negro people to go around on this 60-40% basis so the Board ofEducation must ignore this 60-40% basies because there are not enough Negroes to go around in the other schools and because it would be unfair.

There is talk that a Negro must sit next to a white child in order to obtain an education. You mean to tell me all the Negroes in the south that went through high school, attended college in a Negro college and when they came to Buffalo to teach are not qualified to teach. That is a lot of baloney! If these teachers who are teaching in the City of Buffalo today who were educated in solid Negro schools and got their full education in a Negro school are not qualified, then it is up to the Superintendent of Education to re-examine that individual and to certify them if need be because we have some of the most intelligent Negroes in America that are graduates of Negro colleges.

They say - we want the Woodlawn Junior High School integrated .... and the people in the community take full charge - I mean the people who support the community - not these people who jump up when something happens - but the good people in our community - take Woodlawn or any other school and make it a shining example for the City of Buffalo. No, the want to kick the school around, kick the students around - this has created more hatred than I have ever seen in a short period of time.

The last time I spoke before this Board of Education, February 26, at Hutchinson, I was met by a member of the NAACP who threatened to blow up my home unless I changed my attitude ...

CHAIRMAN RUBINO:--I don't think, Mr. Jackson - I would appreciate if we digress from references of that type.

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MR. JACKSON:--Many persons in the Woodlawn neighborhood and in various other neighborhoods .... there have been many different sotries told ... but I know this is not true, but many people who are not exposed to our medium believe this to be a fact - many persons do not take time to read ... they are not aware of the fact confronting them today. I say to this School Board ... they would be able to solve this problem ... if the people of the community and it is the people in the community of Woodlawn Junior High School that should be concerned - more than the people who stand on the sidelines who are trying to cause confusion for monetary gain - this is not a racial issue of this tupe - I think if the Board of Education adopted a policy to this effect - to educate the people to the issues involved here in Buffalo, there will be no trouble, no demonstrations and all of you concerned will be satisfied.

CHAIRMAN RUBINO:--Mrs. Terranova

MRS. TERRANOVA:--I am Mrs. Terranova and I come as a citizen - a West side citizen. All I know is that I have been sitting up there for four hours listening to pros and cons and colored and white and we haven't gotten any further now than we were two weeks ago or three weeks ago at our first Board meeting. You have heard us, Board of Education, now if an when, I don't know, when can we get some personal views from you about this Woodlawn situation? Is it legal or is it not legal to redistrict or district and send our children across town? There have been many stories in the papers and I don't think any two or three people have interpreted them the same way so I am asking you now, can we get some answers from the Board?

CHAIRMAN RUBINO:--I think the Board of Education has set up as its target date March 26 at which time it will proceed to make the district lines for Woodlawn Junior High School. At that time we hope our two absent Board members will be back in the city and we hope to, at the next meeting, make that decision.

MRS. TERRANOVA:--And then there may be two more members who are not here.

CHAIRMAN RUBINO:--I don't think you have any right to make any personal observations with respect .... the Board of Education, I think, has been quite patient and I think deserves some commendation for their patience and certainly we are very interested in hearing from all people and we stayed here as long as we have .... this is a hearing for the public ... we are here to listen .. we are not supposed to participate. We had our meeting before you people proceeded to have us hear from you.

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MRS. TERRANOVA:--Definite, and I understand that. I did not mean anything personal. I just want to understand that..

CHAIRMAN RUBINO:-- I am sure of that.

MRS. TERRANOVA:--in two weeks you are going to be able to tell us what to do, is that it?

CHAIRMAN RUBINO:--We hope to be able to establish by the next meeting the district lines for Woodlawn Junior.

MRS. TERRANOVA:--But the same people are talking today that talked at the last meeting.

CHAIRMAN RUBNO:--That proves you have a very conscientious School Board. We didn't have to permit the people the privilege of the floor today if we had chosen not to do so but we did in the interest of many people who desired to speak.

MRS. TERRANOVA:--We appreciate that.

CHAIRMAN RUBINO:--All right, you may continue.

MRS. TERRANOVA:--I think, as I have said, people should stay within the community. If you want to join us fine, come down and join us in our neighborhood .... we have integration. As a youngster I went to Hutchinson. We sat side by side just as you are doing now, but one woman said "Know your school." How can you know your school if it is half way cross town?

(VOICE IN AUDIENCE) You have cars, don't you?

MRS. TERRANOVA:--Some of the people who have fancy titles after their names - they probably have more than one car in their family - perhaps two or three.

CHAIRMAN RUBNO:--Speak for the record,,please. We are not permitting any conversations among people. Continue speaking for the record, please. We have had a wonderfully orderly meeting, let's keep it that way.

MRS. TERRANOVA:--This is not a personal thing. What we want to know is if we are going to do this thing, is it legal or is it not legal for us to send our children over there.

CHAIRMAN RUBINO:--Thank you.

Mrs. Ernestine Robinson, please.

MRS. ERNESTINE ROBINSON:--May name is Ernestine Robinson, and I am making this statement for Parents for School Integration.

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Mr. Rubino, members of the Board, Dr. Manch, we as Parents for School Integration believe that an integrated school education is the best possible education for all the children of Buffalo. Woodlawn Junior High School presents an opportunity to move in this direction.

When the community first protested the location of the school, they were assured that it would be integrated. Two years have passed and this promise has not been kept. In these two years, the Board of Education could have educated parents for integration and overcome bias and opposition. This was done with great success in Louisville, Kentucky.

Many people have said that bi-racial zoning of Woodlawn Junior High School would violate the concept of the neighborhood school. However, we feel that it is color, not geography, that determines the neighborhood school. White parents send their children out of the neighborhood to private and parochial schools. These white children are sent to schools out of their neighborhood to avoid integration of predominantly Negro schools. This is true in P.S. 17 and all the schools with optional zones. As to distance, we feel parents should be concerned with distance between black and white rather than distance between schools.

There seems to be confusion in people's mind about what a junior high school is which the Board of Education has done nothing to clarify. A junior high school is a central school rather than a neighborhood school and is intended to provide facilities that an elementary school does not. Since there are fewer junior high schools than elementary schools, they are bound to draw students from larger areas. Students will have to travel further regardless of whether the school is integrated or not. Both Negro and white students are being short-changed in a segregated school. Attendance at a segregated school is poor preparation for adult life in a bi-racial world.

We believe that people are the most precious natural resource and inferior schools are wasteful of talent and ability - talent may never be discovered let alone developed. We know that children inherit prejudices from their parents and we feel these prejudices are bound to break down if children attend a bi-racial school. We also feel that the zoning of Woodlawn would set a precedent for other new schools and would like to feel that the City of Buffalo is committed to integration as is the State Education Law. In spite of the decision handed down by the City Law Department, we believe that integration is not primarily a legal issue but rather a human and moral one.

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We believe an integrated school system is in the best interest of all children. We urge the Board to vote for Dr. Wright's plan to ensure that integration takes place at Woodlawn.

CHAIRMAN RUBINO:--The Chair would like to say, before calling the last speaker, it certainly appreciate the patience and respect which all of our speakers have been accorded, and with that I will call on Mr. James Magavern to be the final speaker in this connection.

Is Mr. Magavern here? Apparently not.

We thank you very much - the meeting is adjourned.

This portion of the meeting adjourned at 1:40 P.M.

- - -

The next regular meeting of the Board of Education will be held on March 26, 1964, at 10:00 A. M. in the Council Chanber.

Respectfully submitted,

Estelle Iroarke

Assistant Secretary

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In the section of the Offermann site, the Board of Education

removed 21 parcels of property, in most cases sub-standard
removed only $291,000 from the tax rolls as compared to $900,000 on the original recommendation
displaced 35-40 families as against 300-600 families with the original proposed site

and last but not least, we could proceed with plans for the building of this new Masten District Junior High School from between six and eight months as against the possibility of a five-year delay.

And so, today, the 26th of March, our Board of Education of 1964 is face-to-face with the responsibility of establishing the district lines for the Woodlawn Junior High which, frankly, are spelled out practically in their entirety in the original proposal as submitted by Dr. Manch and Dr. Rooney to the Board of Education.

I hope in some small measure I have reviewed and told the entire Woodlawn Junior High story which I feel is so necessary to each and every one of us in order that we might be in complete possession of the facts as they relate to the Woodlawn Junior High School. I might add that this statement as submitted is supported by the official minutes of the meetings of the Board of Education and by the official proceedings of the Buffalo Common Council.

Thank you.

CHAIRMAN ECONOMOU:--Is there any further discussion on the motion?

DR. WRIGHT:--I would like to have Dr. Manch's opionion of this proposal.

DR. MANCH:--I would be very happy to comment on it. In the first place, may I say this is a statement of fact - that I did not know of any details of this particular proposal until some time yesterday when, and I think this is a true statement of fact, and I don't mean it in any critical way, - almost by accident I came upon a discussion of it, and participated in it in terms of giving information.

MR. NITKOWSKI:--You have not had any occasion to study this with your staff?

DR. MANCH:--Not with the staff except one member of the staff who was involved in the discussion at that time. I don't say that critically. A member of the Board has a perfect right to propose a plan without consultation with the rest of the Board members, I am sure, and with the Superintendent in a formal manner.

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CHAIRMAN ECONOMOU:--Dr. Manch, may I interrupt you just a minute - direct all of your questions to the Chair, please. Thank you.

DR. MANCH:--Now, as I listen to the proposal, and I think it changes just in a minor detail from yesterday, Mr. Parlato. I don't recall whether other changes were made or not.

I would say, depending on the decision the Board makes, this is as good a plan for a district which will be organized on the basis of the immediate neighborhood as probably any other. I can not say as to the details. I have a little concern, as I think you know, Mr. Parlato, about the interpretation of the optional district in 17 and so on. My own feeling is that I would like to eliminate optional districts of this kind at the earliest opportunity because they lead to misunderstanding.

Perhaps I can best comment on my reaction to this plan, and any others like it, by presenting some notes that I have been writing during the last few days which will indicate my feeling at this moment, if the Board would want to hear it. I am prepared to do that. It is about four pages.

CHAIRMAN ECONOMOU:--We had better hear the entire statement.

DR. MANCH:--This will indicate what I feel at the moment.

First, let me reaffirm my position that I have indicated on several occasions in regard to my feeling about an integrated society. So, and I don't think it is any different from that of almost everybody else, I would have to go back to my statement of February 15, I believe it was, to do that, and it is the first point I made in the series of seven points. This has been referred to as the seven-point statement, and I said in point 1, "I believe that it is desirable in a pluralistic society like ours, to attempt to reflect in school membership a cross-section of the cultural and ethnic background of the community." The Board in the past, I said, has taken action which accomplished this, particularly at Bennett High School, School 16 and School 54. I used those illustrations. Then I went on to talk about what I saw at the time as some of the difficulties, some of the things I could not approve like wholesale shuttling of children back and forth; I was not prepared to approve busing, particularly for financial reasons, and I think you will recall other points I made in that statement. So, I must affirm that feeling. As a matter of fact, I would continue -

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Some of the events of the past few weeks, including the feeling akin to panic which has been generated by discussion and contemplation of the Woodlawn situation, proves to me how desperately we need to move sociologically toward the American ideal of the open society where we can truly live as neighbors without fear and distrust.

I do believe in the rightness of an integrated society - and abhor the evils of discrimination based on race, creed or national origin. I am persuaded to this belief by my own personal experiences and convictions and by the tenets of my religious persuasion, among which is one common to all civilized religions - "Love thy neighbor as thyself."

Now, having said that, I must indicate some of the difficulties involved in carrying that feeling out in regard to Woodlawn, and I must ask you to believe me that I have really spent many hours pondering this question, as the rest of you have, trying to find what I might feel would be some reasonable solution out of this dilemma we face.

It is unfortunate and, I think, unfair that the Woodlawn school has been declared by some individuals and groups - generally newcomers to Buffalo, including Mr. Alexander - to be the test of the Board's and the Superintendent's intention in this total matter of racial balance.

Over and over again we have heard comments that "this is the test, this is the test for the Board of Education." Well, as a teacher, and as most teachers know, a test for which there is no reasonable answer is not a valid test. If the Board of Education and the Superintendent were required to pass any tests, I would have to suggest that we have already done this many times over a period of many years - for example - at Bennett, at Riverside, at Lafayette, all of the vocational high schools, Fillmore and Genesee-Humboldt Junior High Schools, as well as at several elementary schools, including number 76 this past September.

And let me interrupt to say a word or two about 76. In a neighboring city just this February there was a transfer made of a number of Negro children, I think it was the same number we transferred to 76, from a school which was largely Negro in population, to a school which was, I think, almost wholly white in population, and there was a great deal of difficulty over that as some of you may know who perhaps saw some reflection of that in our own newspapers. Yet, in Buffalo, by action of the Board last August, we transferred over a hundred children and I think practically all of them were Negro children, to School 76, children who would normally have gone to School 37 which is practically an enrolled Negro school, I believe,

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and we had no difficulty whatsoever. They were transferred because we needed the space at School 37. We had space at 76. The children and the parents at School 76, and this is to the credit of Buffalo, accepted those children without any question. This was a routine transfer effected. I was there on the very first week of school myself, observed that the children had been very well accepted, were properly distributed through the classes, they were not put aside in special classes of their own, and I have been there twice since. No difficulty at all, but nobody talks about that. Everybody talks about Woodlawn as the test. I wish it were a test that were valid.

I should like at this point, to compliment members of the Board for letting their positions be known in this matter. After that meeting we had, beginning at 6:00 o'clock on a Friday which ended at 1:00 A.M. or 1:30 A.M. in the morning, and some of us didn't get out of the Board room until about 3:30 in continuing a discussion of the problem, the Board members decided to give the citizens of Buffalo an opportunity to know how the various Board members stood at that time. I want to compliment every Board member on our Board for taking that position because that has given this community a chance to be heard; and they have been heard through petitions, through statements, through letters and telephone alls at all hours of the day and night, and I accept that as part of the responsibility of this work, and at the general meeting, one at Hutchinson Technical High School, and one in this Council Chamber at the last meeting.

I think the Board President, Mr. Rubino, showed great consideration and foresight in arranging for these meetings in the Council Chamber so so many of you could be here. I think that now the community has spoken in the highest tradition of 'democracy - not as one voice, but as several voices, which again is a democratic principle. People have been permitted to express their point of view. They have had an opportunity to do this. We must now assess what has been said, what we know, what we feel, and what we must do, in the best interests of the children of this community.

This includes the children who are with us now, and I am concerned about them and the effect of all of this on them - they are with us now - children who 'cannot wait for decisions about their future - their future is here - we are determining it every day - because they must be in school, in grades 7, 8, or 9, or any other grades, as of September 1964.

There can be no hiatus in the continuity of education for our children while we ponder and deliberate, Nor has

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any one of us the right to deprive them willfully of a single day's attendance at school, and I want to underscore that. Children must continue to go to school while this problem is being ironed out - there will be many problems to iron out in the next few months and perhaps few years.

Now, several facts must now be faced in recognition of reality, I think. I was going to trace the course of this decision with regard to the selection of the Woodlawn site in 1958 - Mr. Rubino has done that very adequately - it is obvious that he has done a great dea. of research and given a great deal of time to it. I too would support the action of the Board of Education in 1958, an action which I recommended in an effort to provide for the needs of the children, and I might say that the Woodlawn site, by any measure, is a much better site for a school than the original one proposed which the Board did not accept.

I could take about 50 minutes more to talk about what the situation was then and what it is now. People tend to forget these things. What was the climate then? What were we thinking then in terms of children? Believe me, we were all glad and happy and proud to be color blind in those days. We wanted to treat children as children and give all of them everything they needed. Then some things happened. We have had a social revolution in this country. We've had a civil rights movement. I was part of that movement and I'm proud of it. I'm still part of it.

attitudes changed and facts took on a different coloration. Where at one time, we were proud to be color blind, I was astounded one day to be at a meeting with the State Commissioner of Education of this State where he announced to us, the superintendents of New York State were assembled at a meeting with the Commissioner, thtat we were to take a census by color of students in grades 1-6 by schools. This was a shock to me because I had always prided myself on not counting them by color, but looking at people as people.

As a matter of fact, I can say to you that when I became Assistant Superintendent for Pupil Personnel Services, I discovered that some records - they were old records - they were still using the same cards which indicated the race of children-were still be used- and I ordered that they be destroyed. That is the way we felt in those days. Now, as a result of many things that have happened, many things that we can understand, many things that need to happen, we found we must be very color conscious, but there is no easy way to deal with this, believe me.

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Where in 1958 we were proud to provide, at the request of many people, many people in official life, including Councilwoman Maloney, as Mr. Rubino pointed out, a very fine school facility for children in this city, we found as the year went on that there were many changes in that community. People forget that too. Remember that Urban Renewal came along and all those houses were knocked down in the Ellicott District and people moved up into that area. We had a tremendous congestion of students, and I reported those figures as Mr. Rubino indicated. These things have happened.

In the meantime, in addition to the survey the Commissioner had asked us to make, we had a number of statements from him, some of them sent formally to us with a request for reports, and everyone has commented on the Commissioner's statementof last June. It was as a result of that statement that the Board approved last June an over-all policy to deal with the problem of racial imbalance. It was unanimously approved - it was a voluntary transfer program - to permit students to move out of congested areas and get a better method, a better plan of integration. It's not the answer to everything, and nobody pretended it was. We submitted that plan. The Commissioner continued to make statements; I called them to the attention of the Board. I believe that was my responsibility to do that. At no time did he term these statements "mandates" but they were interpreted as such throughout the state. Indicative of this, most of the large cities have already taken positions and acted on various proposals.

But, these things were happening, and in the meantime Woodlawn Junior High School was being built and nearing completion. So we need to review very carefully, very calmly, very sensibly in an adult way all of these things that happened.

I would have to say now, that after a review of all the factors involved in the situation, and even reviewing very carefully my own tentative recommendations, suggestions to the Board, because all of our recommendations were tentative, we took no action on any of them, that I think at this point it is not now feasible, from the point of view of sound education and administration, in view of everything that has happened, in view of all the factors, it is not now feasible, I believe, to draw the district lines for Woodlawn in such a way as to achieve a racial balance that would be meaningful or stable. I don't think there is any middle ground in it any more.

The second point I want to make - we have had some evidence in the past few weeks that it may be unlawful to achieve the goal of integration by deliberately considering

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race in drawing the lines, as indicated by conflicting court decisions, the uncertainty and doubt expressed by Dr. John Jehu, who is the legal counsel to the State Education Department, and unresolved opinions of local attorneys. The third point, and let me add to the second point before I go on -

It has been suggested that it will undoubtedly require a decision by the Supreme Court to determine the legality of the right or responsibility of boards of education to integrate schools deliberately by using race as a factor in setting school district boundaries.

The next point - The school was indeed built, as the recoards will show, and as Mr. Rubino has demonstrated, to provide meeded junior high school facilities for the growing number of children in the immediate area of the school, an action that was vigorously supported by the then Common Council representative of the Masten District, as well as by other official representatives of that area of the city. It was also opposed by certain individuals. I recall that very well. And I don't want to take any more time to go over the ground that Mr. Rubino has already covered, to indicate the pro and cons at that time. When the decision was made, it was made with good intent; it was made with the idea of taking care of children who needed school space and it was made. The school is there. It is there; we must use it there.

It would seem to me, then, in the face of many obstacles and problems, at this time to be the better part of wisdom to open Woodlawn to serve the children for whom it was intended and to get on with the serious business of preparing for the opening of the school in September. We are getting pretty desperate on the staff in terms of the work that needs to be done to staff that school and get it ready.

In this regard, I should like to repeat my position on the subject of compensatory services, with direct application to Woodlawn junior high school. Now, I am not going to way what I am going to say now as an apology to anyone - I have taken this position on compensatory services over a long period of time - I took it originally when I fought for a Ford Foundation grant to carry on the experiment that we have carried on at School 12 with great success, and the four other schools with great success. I should like to assign to this school, with the approval of the Board, a staff fully adequate to meet the needs of every child in attendance. I hope we can call together such a staff. I think we can if we leave this meeting with a feeling of unity, a feeling - a desire to work with children.

Now, this means a carefully selected, well-balances faculty in every area of the curriculum, small classes

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special pupil personnel services, [illegible] and other services and programs that may be required to assure that the students will have optimum opportunities for achievement.

I want to see this school produce its full share of creative talent, something I feel very stringly about - in art, music and the language arts. I want to see this school help develop students who will aspire to higher education in the arts, sciences and professions.

I want to see this school so motivate its students that they will come to the senior high school prepared to achieve their full share of awards and honors, including college scholarships, and our Negro children are not doing this now. I am dismayed - I am dismayed when I note, attending graduations, that so few Negro children come up to scholarships. We must prepare them for this. I want this school above everything else to succeed in preparing young people as worthy citizens for Buffalo and the nation. In short, I would like this school, with the help of all of us, to achieve excellence in every respect.

We start on this task with a building which is undoubtedly among the finest facilities of its kind anywhere in the United States. Now, I haven't seen every school building in the United States, but I've seen a few of them and Dr. Rooney has seen more of them. As a matter of fact, we sent Dr. Rooney on a tour clear across the country, from east coast to west coast, with a group sponsored by a nationally known group that works in this area of school building, and Dr. Rooney can tell you that this school is second to none as a facility. I have been watching this school during its progress in construction. I have visited - it is about two months ago now - shortly after most of the work was completed, and it is a beautiful building. I would like, members of the Board, to arrange for an open house at that school so the citizens can go in and see what we have built there - what the Board has created. So, we start on the task with a building which is undoubtedly among the finest facilities of its kind anywhere in the United States. When we add to this a competent and imaginative administration and staff, and the desire of all of us to help children be everything that they can can should be, I think we can not fail.

In addition, I would recommend that the colleges and universities in our community, who prepare our teachers, be invited to join us, through the use of Woodlawn Junior High School, in the development of an outstanding program of teacher education for the urban community of today.

This can very well be an experiment which would result in making Woodlawn a school to which we could point with pride and to which educators would come from all over the United States to observe and learn.

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I should like to speak for the union of all segments of our community - white and Negro - to work together on behalf of continued improvement of education for all the children of Buffalo.

Let me add this postscript. I am not happy that we could not create a better situation in terms of racial balance in this school, or that I think we can not. No action has been taken yet. However, as I say, after reviewing all the facts, I think what I have said is the best advice I can give at this moment in terms of what is educationally sound - administratavely feasible.

I would also like to say this, one of our very serious problems which we have not talked about much lately because we have been so busy with this very complex problem, is the need to provide financial support of our schools equal to our needs, and I would hope - I would hope that we could arouse as much emotion about our school budget, which after all is a blue print of what our children will get. I would hope we could arouse as much emotion about that as has been aroused about this situation. Year after year we come in here and ask for money and we haven't received what we ask for - what we should get - we know the problems of the city - and we find ourselves right down at the bottom of the hap in terms of what we spend per pupil in this city, and we haven't had this kind of a turn-out on that. Well, the budget hearing before the Council is coming along - I invite all of you to be here.

Mr. Chairman, that is my statement.

CHAIRMAN ECONOMOU:--Any more ....

MRS. SLOMINSKI:--Mr. Chairman -

CHAIRMAN ECONOMOU:--Mrs. Slominski.

MRS. SLOMINSKI:--At the outset, let me say that the Superintendent of Schools stated he had not seen or heard of Mr. Parlato's proposal until yesterday. Mr. Parlato has stated that his proposal is essentially Plan B which was submitted to the Board of Education. It is dated January 17, 1964, revised January 30, 1964. The schools included in the proposal advocated today are the same schools that Dr. Manch, back in 1958, cited to the Board had certain educational needs and for this reason he was recommending that Woodlawn Junior High School be constructed with these schools as the feeder schools - that's 8, 74, 53, and 17. Therefore, it certainly is not a new proposal to the Superintendent ...

DR. MANCH:--May I make myself clear on that - I don't think we need have any argument on it - what I was referring to....

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MRS. SLOMINSKI:--I was just making ....

DR. MANCH:--.....is a very detailed, specific proposal which Mr. Parlato presented ....

MRS. SLOMINSKI:--I was just making ....

DR. MANCH:--Certainly I know of the general outline. Isn't that a fair statement for me to make, Mr. Parlato?

MR. PARLATO:--I think so Doctor.

DR. MANCH:--Thank you very much.

MRS. SLOMINSKI:--I was just referring to what you said.

DR. MANCH:--All right.

MRS. SLOMINSKI:--To go on, when we discussed this in Executive Session, it is true that the Board did not dwell on Plan B. I submit that the only reason we did not dwell on Plan B is because, and again I will disagree with an earlier statement made by the Chairman, Mr. Rubino, that all of the pertinent facts had been submitted to the Board - I state that they were not all submitted to the Board - that no where in the information was any mention made of the fact that School 53 would require additional classrooms in September, The Board was unanimously agreed that the school had adequate facilities - this was not disputed by the staff - it was only weeks later that I learned that there would be a need in September for at least three additional classrooms, and then our thinking on the proposals began to change. That is why School 53 is included in the proposal today.

CHAIRMAN ECONOMOU:--Any more questions on the motion? If not, the Chair calls for a roll call on the mption. It has been moved and seconded - Mr. Parlato moves and Mrs. Slominski seconds ..

MR. MARKEL:--Before casting my vote, I would like to make a statement. A week ago I stated that I might not be prepared to cast my vote today on this matter but, after further investigation of the record and the discussion with many of my colleagues on the Board and our Superintendent, I am prepared to vote. I am convinced that our Board has looked at every phase of the problem. Our Superintendent has given his view and, of course, I greatly respect his views. Now, I could very well abstain from voting today and duck the responsibility since my term in office is drawing to a close, but I feel that after serving 14 years, having had that privilege, and enjoying the many meetings which I attended, and based on my record of service, I am bound to cast my vote. I feel it is my responsibility to do so.

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I am sorry that I shall not be able to please [illegible] Board members, be able to please every segment of our community. But, as I have guided myself in the past in rendering service on the Board, I shall act in a way which, in my opinion, will favor most of our students, their parents and the residents of this city. After all, the people who live in this community and pay taxes, they contribute their money to the operation of our public education system here.

I do not concern myself too much with those people that would try to convince us of what we may do and, by the same token, do not reside in this city but perhaps in the area, and do not have any children attending our system, and I am more concerned with the children themselves.

Therefore, while the program perhaps does not measure up 100% to what I had anticipated it might, I am agreeable to accept it, and I vote Aye.

MR. NITKOWSKI:--Mr. Chairman, I came here prepared to vote against this motion. Of course, in the interest of unity, and with the statement the Superintendent of Schools has made, at this time I vote Yes.

MR. PARLATO:--I vote Yes.

MR. RUBINO:--Before casting my vote, Mr. Chairman, I'd like to make a further, couple comments with respect to this question, realizing that because of my long service on this Board I am far more communicative, you might say, with the project at hand than most of our members, with the possible exception of Mr. Economou who did serve on the 1958 Board.

CHAIRMAN ECONOMOU:--The Board will be very pleased to hear your remarks.

MR. RUBINO:--Thank you, Mr. Economou.

Going back to our official Board minutes on page 5372 of the December 10, 1958 meeting, and I am going to quote the late Councilman Maloney who I had deep, deep respect for, and anyone who knew of the relationship that existed between her and me, and I might say even more importantly than that, between her and our Board of Education because she rendered the kind of service that went well and over and above the call of duty as all of us will well remember in that she used to attend with much frequency many of our Board of Education meetings, and demonstrated the kind of community responsibility that makes all of us proud to know that that type of official does exist. So, in paying tribute to her, I would just like for the record and for this community, to read that at that meeting she said:

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I [illegible] the policy of the Board of Education has not made this. It has been the real estate that have made the pattern and are holding very closely to it. They sell houses on a particular basis, so we have been caught in this particular thing. I wish that it could be at a different place, but if it can not be at a different place than the Offerman Stadium, and the children must have an education, and the children are the innocent victims because of the adults that are situated and located there, then I rise or fall by the children of the Masten district.

On November 12, 1958, page 5288, of the Board of Education official records, Mrs. Maloney went on to say:

> But I do want to say this. We need a school very badly out there with children in the basement at School 53 - they haven't any place to put them, and they are coming in more and more all the time, so my particular interest is for the youth of the Masten District, and I hope that we adults can come to some kind of an agreement whereby they will be served properly.

With that kind of background with respect to the matter that is before us today, and with the great respect that I have felt for all peoples on all levels of government who made up that very, very fine era, and with particular respect to the dedication of the members of the Board of Education who at that time spent, like we, countless hours in reviewing and in evaluating and trying to solve some of these almost insoluable problems - based on all of this background, and based upon the fact that I as a community-minded citizen, I as one who has been raised and reared to appreciate the value and the importance of a conscience, and to place myself in a position, as Mr. Markel said - it was even suggested to me at some time not so long ago that it might be well, in the light of the long service that I had rendered, to get myself a convenient coronary, or take another trip to Boston and have my eyes re-examined, and with that find myself with a very good reason to resign from the Board of Education and in that way not face the problem that is before us this morning.

I am very proud to say - I thank my parents and I thank my good wife who has had to live with me all these many months - I thank all the many hundreds and hundreds of people who I have come to know through the long, arduous years that I have spent on this Board, I have spent thousands of hours, as have many people who

Plaintiff's Exhibit 124.

[illegible] in the public service but [illegible] in the public school system, I believe in the strength of the Buffalo public school system but, above all, I believe in children with whom I have spent many, many hours, be it at assemblies, be it at graduations, be it at school functions of all types, and so I was grappling, like every other conscientious member of this Board, all of whom I have deep respect for. This was a problem that all of us were confronted with and with which we were trying to, in some way, do whatever we felt was in the best interest of first, and last, and always, the children of our community, and so, based on the logical opinion that was sought by our Board of Education and which, I might very parenthetically add, has been sought on frequent occasions by our Board of Education because this citizenry must keep in mind that those of us of the laity who do not have legal training do depend - do depend to a great, great degree upon the opinion and upon the legal counsel of the Department of Law, which does in practically all cases recommend to our Board the pattern or the position that they, in their judgment, feel we should follow - and I might say that in all my 14 years as a member of this Board, whenever an opinion was sought from the Corporation Counsel by our Board of Education, I, in practically all cases, I am almost sure in all cases but, for fear of error, I would say in practically all cases, I have followed the recommendation of the Department of Law, and I might say practically all the Boards on which I served did likewise.

I feel that the only logical step that any responsible official body can take, especially public officers who don't have legal training - in all my official actions, wherever there was a legal question, it was referred to the Corporation Counsel and, as I said, in all cases I have followed it.

In addition to this we did receive, which was a shock to all of us, and particularly to me, we did receive the unsolicited counsel from the State Education Department in the person of Dr. John Jehu, who is considered one of the best legal minds in this state, so much so that he is the legal attorney for the State Education Department, and with whom our Commissioner of Education, James Allen, works quite closely. He, without any deliberation with the Department of Law in Buffalo, practically in unison, coincided with the opinion of our Corporation Counsel, Mr. Saft, who, in the company of Robert Burrell, his assistant, and in the company of probably one of the most distinguished legal minds in this country - he has been cited on many, many occasion as being the father of municipal law, as one of the most outstanding legal minds in municipal law, and I refer to the former Corporation Counsel and retired gentleman, Elmer Stengel, who also

Plaintiff's Exhibit 124.

Counsel. These three gentlemen, Ralph Saft, the Corporation Counsel; Robert Burrell, the Assistant Corporation Counsel; and Elmer Stengel, you might say Corporation Counsel emeritus - all outstanding legal minds, with the support, unsolicited, of Dr. John Jehu, the legal attorney for the State Education Department, all came to the same logical conclusion that it would be in the best interest of the Board of Education to wait for the United States Supreme Court to make the final ruling, which will probably be forthcoming within a year, at which time there will then be a very definitive and a very clear legal position with which all Boards of Education could then administer their responsible positions.

And so, based on what I feel as a responsible public official, and as one who has been proud to serve as a member of this Board of Education, as one who has been proud to have been appointed by three mayors, of both political parties, and anyone who knows me knows that I have always done my own thinking, I have always done my own soul-searching, and based on all my years of experience - I feel in waiting for the Supreme Court to make this ruling, we will be best serving the interest of all the children of the City of Buffalo. I vote Yes.

MRS. SLOMINSKI:--Our choice today is not integration or segregation. The Board has been assured by our Superintendent of Schools on many occasions that our school system is an integrated school system. The choice, I feel, is between sound educational practice and facial balance. The proponents of racial balance have spouted hypothetical social and psychological theories not founded on fact. I can not turn my back on the children of the Masten area and exclude them from Woodlawn Junior High School because, and I quote, "This is the sacrifice they must make for the greater good."

Woodlawn Junior High School was constructed in the Masten area to meet the educational needs of the children in that area. Not one of the proponents of racial balance has denied that the same educational needs continue to exist today in the Masten area. I fail to see how the exclusion of any of the children from School 8, from School 74 and 53 would educationally benefit these children. True, we would have a racially balanced junior high school, but at the sacrifice of those children who most need the special services and facilities.

How any dedicated and understanding educator at the outset could advocate such a sacrifice is beyond all comprehension. To deny the children of 8, 74, 53, 17, and 16 access to Woodlawn Junior High School would be to discriminate against them, and this I could never do.

Plaintiff's Exhibit 124.

children. Our Federal and State Constitution and our Education Law prohibit racial discrimination. Many of the learned proponents of racial balance have urged that this Board disregard the Constitution and the Education Law and that our moral obligation is greater than the law.

Before I cast my vote, I would like to say that no one person - no one group - has a monopoly on morality; no one group has a monopoly on conscience; no one group has a monopoly on dedication. To sacrifice one child on the altar of racial balance would be a violation of my legal and moral obligation. I therefore vote Yes.

DR. WRIGHT:--Before voting, I should like very much to answer some questions that have remained unanswered for the past few weeks.

The Buffalo Teachers Union has made public a letter asking me to "renounce" certain statements by Mr. Nelson H. Nichols, Jr, Executive Director of the Urban League. I gather that the Buffalo Teachers Union's main point is that the reason Negro schools are inferior is that they have inferior pupils.

I would like to say, first, that I am incensed at the suggestion that I speak for Mr. Nichols or for Negro leaders. What I say and do on the Board of Education is no more Negro than what I say and do as a physician.

What I seek to promote is the best and broadest education for all children. In particular I believe in integration in public schools, not as an end in itself, but as a significant facet of education. On this point it seems likely that I am at odds with both Mr. Nichols and the Buffalo Teachers Union.

I would like to say, second, that the "gross misconduct" and the "rudeness of manner" to which the Buffalo Teachers Union calls attention are indeed prevallent in some predominantly Negro schools.

As a pediatrician, however, I know that there are no differences in behavior between white and Negro children at birth. Whatever maladjustments Negroes or whites exhibit later are the result of cultural deprivation. The only difference is in degree - Negroes have been culturally and educationally deprived for over 300 years.

That is why children in predominantly Negro schools present a special educational challenge and why these children have a specially great educational need. What we must do is to answer that need, not to deplore it.

Plaintiff's Exhibit 124.

I [illegible] in the Buffalo public schools, and whether or not our proposed budget is based on these facts:

1. Ninety-six per cent of the public school children in the state have more money spent on their education each year than the child in Buffalo public schools.

2. In the five other large cities of the state, the average annual expenditure per pupil exceeds that of Buffalo by $200.

3. The salary scale for teachers in Buffalo is in the lowest quartile among 107 Western New York school districts.

4. Among these 107 Western New York school districts, Buffalo ranks 107th in net current expenditures per pupil.

I mention these facts because I am deeply concerned about the future of the whole City of Buffalo. As our public school system goes, so goes the city. The only way to maintain a stable, informed and contributing citizenry is to have quality public schools, and the above facts suggest that perhaps the quality of our public schools may be in danger.

It is true, as Dr. Manch and Dr. Leighbody have cautioned us, that statistics are not everything, but they are not nothing either. Where the statistical facts are stark and clear, as they are in testifying to the general needs of Buffalo public schools and to the special needs of our predominantly Negro schools, it is straining at the limits of responsible argument to suppose that the picture they paint is wholly different from the "real facts." And, in the face of such vast educational needs, it is irresponsible to argue about whether our schools should be called inadequate or inferior or simply needy.

Naturally, I must vote No.

MR. ECONOMOU:--I know , as both the newspapers, the Courier-Express and the Buffalo Evening News stated editorially, no solution this Board may adopt will satisfy everybody.

I would like, however, at this time to congratulate my colleagues on this Board for their calm, intelligent, and common-sense approach to the problem.

Plaintiff's Exhibit 124.

In my almost half a century in public service, I can not recall a question which concerned me as much as the issue that confronts this Board of Education this morning: The districting of Woodlawn Junior High School.

While I have great respect for the opinions of my colleagues on this Board of Education and the opinions of the many fine people and groups who have voiced their thoughts on this question, I feel that the only course I can follow is the course my conscience dictates and the course I feel is to the best interest of the children this school was intended to serve.

I completely agree with the President of our Board and share with him the great respect for the members of the Board of Education of 1958, with whom I had the honor of serving - citizens of outstanding integrity and dedication, and I, as Mr. Rubino, pay tribute to them for their great service to the cause of public education.

Since there has been much controversy and confusion with respect to our legal authority, I feel as a responsible Board member and also as a responsible citizen, that I have no alternative but to accept the legal advice of both the Corporation Counsel for the City of Buffalo and the legal counsel of the New York State Education Department, that this Board of Education wait for a final decision from the United States Supreme Court.

Therefore, I vote Yes.

- - -

AYES-ECONOMOU-MARKEL-NITKOWSKI-PARLATO-SLOMINSKI-RUBINO-6
NOES-WRIGHT-1
APPROVED

- -

CHAIRMAN ECONOMOU:--No further business to come before this meeting.

MR. RUBINO:--Mr. Chairman, I move that this Board of Education adjourn in memory to the respect of the late and very distinguished former Buffalonian, United States Senator James M. Mead.

SECONDED--MR. MARKEL

CHAIRMAN ECONOMOU:--It has been moved and seconded that this meeting be adjourned in respect to the memory of the late Senator James M. Mead.

The meeting stands adjourned

Plaintiff's Exhibit 124.

There being no further business to come before the Board, the meeting was adjourned at 12:00 Noon in respect to the memory of the late Senator James M. Mead.

The next regular meeting of the Board of Education will be held on Wednesday, April 8, 1964, at 10:00 A. M.

Respectfully submitted,

Estelle Traiman

Assistant Secretary

Plaintiffs' Exhibit 170.

No. 161.

By Mrs. SLOMINSKI and Messrs. LYMAN, LEWANDOWSKI, BUYERS and ELFVIN:

Prohibition Of Use Of Relocatable Classrooms.

WHEREAS, the Board of Education of the City of Buffalo has approved the use of relocatable classrooms at certain specified public schools in the City of Buffalo, and

WHEREAS, the said relocatable classrooms will be located at some public schools which are in need of major reconstruction and/or repair and maintenance, and

WHEREAS, some of said relocatable classrooms will be located at public schools which lack adequate library facilities, adequate cafeteria and/or lunch room facilities and adequate industrial arts shops and home economic teaching facilities, and

WHEREAS, some of said public schools are presently overcrowded, and

WHEREAS, some of said relocatable classrooms will be placed upon public school playgrounds and other recreational areas, and

WHEREAS, there is a shortage of playgrounds and/or recreational areas in the City of Buffalo, and the placement and location of such relocatable classrooms will reduce the amount of such playground and/or recreational space, and

WHEREAS, some of said relocatable classrooms will be placed upon the lawns adjacent to said public schools, and such placement will detract from the areas surrounding said schools, and

WHEREAS, the Board of Education has indicated to the Common Council that it does not know to what specific purpose each of said relocatable classrooms will be put;

NOW, THEREFORE, BE IT RESOLVED, that the Corporation Counsel be and he hereby is authorized and directed to prepare the necessary legislation which would prohibit the use of relocatable classrooms for the instruction of Public School pupils in the City of Buffalo.

Mr. Makowski moved to Lay on the Table; seconded by Mr. Mitchell.

Mrs. Slominski as an amendment moved to approve the item with the amendment that the Building Code be amended so as to prohibit the use of relocatable classrooms for the instruction of pupils in the City of Buffalo.

Adopted.

Ayes—Buyers, Elfvin, Franczyk, Lewandowski, Lyman, Perla, Slominski, Whalen—8.

Noes—Black, Gorski, Johnson, Makowski, Mitchell, Morrisey, Regan—7.

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No. 162.

By Mrs. SLOMINSKI and Messrs. LYMAN, LEWANDOWSKI, BUYERS and ELFVIN:

Use of State Public Funds For Relocatable Classrooms.

WHEREAS, the Board of Education of the City of Buffalo has approved the use of relocatable classrooms at certain specified public schools in the City of Buffalo, and

WHEREAS, the said relocatable classrooms will be located at some public schools which are in need of major reconstruction and/or repair and maintenance, and

WHEREAS, some of said relocatable classrooms will be located at public schools which lack adequate library facilities, adequate cafeteria and/or lunch room facilities and adequate industrial arts shops and home economic teaching facilities, and

WHEREAS, some of said public schools are presently overcrowded, and

WHEREAS, some of said relocatable classrooms will be placed upon public school playgrounds and other recreational areas, and

WHEREAS, there is a shortage of playgrounds and/or recreational areas in the City of Buffalo, and the placement and location of such relocatable classrooms will reduce the amount of such playground and/or recreational space, and

WHEREAS, some of said relocatable classrooms will be placed upon the lawns adjacent to said public schools, and such placement will detract from the areas surrounding said schools, and

WHEREAS, the Board of Education has indicated to the Common Council that it does not know to what specific purpose

each of said relocatable classrooms will be put, and

WHEREAS, public funds of the State of New York will be used for the purchase or leasing of said relocatable classrooms;

NOW, THEREFORE, BE IT RESOLVED, that the Common Council of the City of Buffalo state its opposition to the use of public funds of the State of New York for the purpose of leasing or purchasing relocatable classrooms by the Board of Education of the City of Buffalo, and be it

FURTHER RESOLVED, that the City Clerk of the City of Buffalo be and he hereby is authorized and directed to forward a copy of this resolution to Dr. James E. Allen, Commissioner of Education, the Governor of the State of New York and to the presiding officers of the New York State Senate and Assembly.

Mr. Makowski moved to Lay on the Table; seconded by Mr. Mitchell.

Mrs. Slominski moved as an amendment to approve; seconded by Mr. Lyman.

Adopted.

Ayes—Buyers, Elfvin, Franczyk, Gorski, Lewandowski, Lyman Makowski, Perla, Regan, Slominski, Whalen—11.

Noes—Black, Johnson, Mitchell, Morrisey 4.

No. 163.

By Mr. WHALEN:

Appointments—Commissioners of Deeds.

That the following named persons are hereby appointed as Commissioners of Deeds for the term ending December 31, 1968 conditional upon the persons so appointed certifying under oath to their qualifications and filing same with the City Clerk:

Basil A. Ormsby, Michael Anthony Rubino, Walter Schmidek, John Tomizzi, Jr., Bernadette Ziemba, Frank X. Bennett, Jr., Theresa E. Hoffman, William J. Kushman, James R. Privitera.

TOTAL: 9.

Adopted.

No. 163A.

By Mr. WHALEN:

Appointments—Commissioners of Deeds—Required for the Proper Performance of Public Duties.

That the following named persons are hereby appointed as Commissioners of Deeds for the term ending December 31, 1968 conditional upon the persons so appointed certifying under oath to their qualifications and filing same with the City Clerk:

John Criola, Henry Pauly.

TOTAL: 2.

Adopted.

UNFINISHED BUSINESS.

No. 164.

Pennsylvania Truck Lines Inc. Petition To Rezone Nos. 167-173 Myrtle Avenue From R-3 to M-1 District.

(Item No. 85, C.C.P., February 6, 1968.)

Mr. Makowski moved that Res. No. 184, C.C.P., May 2, 1968—Pennsylvania Truck Lines Inc. petition to rezone Nos. 167-173 Myrtle Avenue from R-3 to M-1 District. (Item No. 85, C.C.P., February 6, 1968) be taken from the table.

Carried.

Mr. Makowski moved that,

The Common Council of the City of Buffalo do ordain as follows:

That that part of Chapter LXX of the Ordinances of the City of Buffalo known as the Zoning Ordinance, as relates to the Use Map thereof, is hereby amended to show an "M-1" light industrial district instead of an "R-3" dwelling district for premises known as 167-173 Myrtle Avenue and more particularly described as follows:

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Plaintiffs' Exhibit 171.

No. 11

Common Council Proceedings

OF THE

CITY OF BUFFALO

May 28, 1968

Pension Proceedings, May 31, 1968

Plaintiffs' Exhibit 171.

No. 172.

By Mr. JOHNSON:

Re: Establishment of Martin Luther King Professorship.

WHEREAS, there exists a new sense of concern, commitment and urgency by religious leaders of all faiths in America; the moral, humanitarian, and religious grounds for racial justice have been present and a part of our democratic ideology for more than 300 years; and

WHEREAS, it is in the spirit of this commitment and in the spirit of Non-Violence, that the Black Community of Colgate Rochester Divinity School proposes to conduct an $800,000.00 Community wide campaign for the establishment of a Professorship in Black church studies and graduate fellowships in memory of the late Dr. Martin Luther King Jr.; and

WHEREAS, it is apparent that in a significant sense the future harmony of the life of America depends, in great measure, upon the responsible leadership which will be developed in the future.

NOW, THEREFORE, BE IT RESOLVED: That the Common Council of the City of Buffalo does hereby extend its sincere felicitations to the sponsors of this undertaking; and wishes for them success in the campaign, May 19-June 24th in the achievement of this goal.

Adopted.

No. 173.

By Mr. JOHNSON:

Re: Summer Operation of School Community Playgrounds.

WHEREAS, approximately one-half of the total operation and maintenance budget of the City of Buffalo for the ensuing fiscal year 1968-1969, has been allocated to the Board of Education; and

WHEREAS, the Board of Education has allocated $250,000.00 for the Summer Operation of Playgrounds, most of which are located at school sites; and

WHEREAS, the maximum utilization of these public facilities is necessary in order to provide needed recreation opportunities for all of the youth of our City;

NOW, THEREFORE, BE IT RESOLVED: That the Common Council of the City of Buffalo does hereby strongly urge and request that the Board of Education schedule and staff the Operation of the Playgrounds seven (7) days per week, from 9 A.M. to 9 P.M. in the aggregate of eighty-four (84) hours per week; and further, that the summer operation of playgrounds commence not later than June 21, 1968.

Referred to Board of Education.

No. 174.

By Mr. JOHNSON:

Re: Model Cities Commitment by Buffalo Common Council.

WHEREAS, the City of Buffalo in its Model City Planning Application, which was unanimously approved by the Common Council, stated that State-enforced legislation exempts almost 90% of the available rental housing in Buffalo, and there are no locally enforced legal sanctions against discriminatory practices and,

WHEREAS, the City of Buffalo further stated that its goal is to remove all barriers to unrestricted, free and equal access to all Buffalo Area housing, either currently existing on the market or to be built and,

WHEREAS, the City of Buffalo further stated in its Program Approach that it would include the provision of total-coverage fair housing legislation together with machinery for its vigorous enforcement,

THEREFORE, BE IT RESOLVED, that this Common Council directs the Corporation Counsel to draw up a fair housing ordinance which will cover all housing, including that which is exempt by the current State Law against Discrimination and to provide in said ordinance machinery for its vigorous enforcement so that this Common Council in adopting such ordinance will fulfill this City's commitment to provide its non-white citizens, or any other persons deprived of unrestricted access to housing of his choice by reason of race, reli-

Plaintiffs' Exhibit 171.

gion, color or creed, with the protection of the law as he seeks to live where he desires and his means permit.

Mr. Makowski moved to refer the Item to the Corporation Counsel. (Seconded by Mr. Johnson.)

Mr. Lewandowski moved as amendment to receive and file the Resolution. (Seconded by Mr. Lyman.) Lost.

Ayes—Elfvin, Franczyk, Lewandowski, Lyman, Slominski, Whalen—6.

Noes—Black, Buyers, Gorski, Johnson, Makowski, Mitchell, Morrisey, Regan—8.

Mr. Makowski moved his original motion to refer to the Corporation Counsel.

Adopted.

No. 175.

By MR. JOHNSON:

Re: Ellicott District Redevelopment 2nd Phase.

WHEREAS, the City of Buffalo's disposition agreement with the developer, Urban Properties, Incorporated, was executed on April 3, 1964 for the purpose of developing rental housing units, 906 dwelling units in total, within the Ellicott District Redevelopment Project, and

WHEREAS, according to the terms of said agreement the construction program was scheduled in four (4) phases to be completed within five years, starting 1964-1965; and

WHEREAS, the first phase of development of 220 dwelling units was completed in December, 1966 and subsequently fully occupied and

WHEREAS, the second phase of develpment is not under construction as yet, interrupting continuity of construction for a period of a year and a half, and

WHEREAS, there is a proven need and demand for housing in Buffalo, as conclusively evidenced by a waiting list of more than 300 prospective tenants for the Ellicott Project alone, and

WHEREAS, the lack of progress in providing new housing units as a basic resource for relocation purposes within the Urban Renewal Project, could jeopardize the proposed Oak Street Project, and

WHEREAS, confidence in the success of urban renewal throughout the city will not be established until the development of housing in the first project is completed, and

WHEREAS, the development of the project requires the coordination of responsible agencies, such as the Department of Urban Renewal Federal Housing Administration, the Ellicott Community Development Foundation and the developer, Urban Properties, Incorporated;

NOW, THEREFORE, BE IT RESOLVED, that a special hearing will be held by the Urban Renewal Committee of the Common Council with all agencies and sponsors involved in the redevelopment program of the Ellicott District Redevelopment Project.

AND BE IT FURTHER RESOLVED, that upon the conclusion of the hearing, the Committee initiate expeditious steps to hasten the construction of low and moderate cost housing in the City of Buffalo and report to the Common Council their findings and proposed action.

Adopted.

No. 176.

By MR. JOHNSON:

Re: Preparation of Open Housing Ordinance.

WHEREAS, the City of Buffalo to the present time has not enacted or passed a City ordinance which prohibits occupying, leasing or selling housing accommodations consisting of one or two-family dwellings because of race, color, creed or national origin;

NOW, THEREFORE, BE IT

RESOLVED: That the Corporation Counsel be and he is hereby directed to prepare an appropriate ordinance for the consideration of the Common Council.

Referred to the Corporation Counsel.

Plaintiffs' Exhibit 172.

No. 177.

By MR. JOHNSON:

Re: Urban Renewal and Relocation of Displaced Persons.

WHEREAS, the City of Buffalo, as a whole, and the Core Area in particular, has a demonstrated need for standard housing of good design in the low and moderate-cost range; and

WHEREAS, the City of Buffalo continues the execution of massive demolition programs in the Core Area of the City, of the already inadequate number of housing units; while at the same time it demonstrates its abject failure to complete construction of new low and moderate-cost housing in any of the numerous so-called Urban Renewal Projects; hence Urban Renewal Projects, cannote "Urban Remove You-All" Projects, to the residents of the Core Area thus affected; and

WHEREAS, it is readily apparent that the Federal Government, through its H.H.F.A. imposes needless stringent requirements which result in inordinate delays of the construction of critically needed new housing, and thereby contributes to the continuing spread of blight and housing deterioration in this city; and

WHEREAS, these impacted Core Areas, and the dislocated persons are in dire need of intensive services of the Buffalo Municipal Housing Authority, which currently functions as the City of Buffalo's Relocation Agency;

NOW, THEREFORE, BE IT RESOLVED, that the Common Council of the City of Buffalo does hereby urgently request that the Buffalo Municipal Housing Authority transmit to this body a detailed comprehensive report of the existing rental vacancies throughout the City.

RESOLVED, that said requested report, contain necessary pertinent data regarding:

(1) Total number of units.

(2) Total number of bedrooms.

(3) Location type (Public-Private).

(4) Cost of rentals.

(5) Projected number of persons to be relocated during 1968-1969.

Referred to the Committee on Legislation and Buffalo Municipal Housing Authority.

No. 178.

By MESSRS. JOHNSON & MAKOWSKI:

Re: District Inspection—Tours by Councilmen.

WHEREAS, there is a need for greater awareness of city problems on a community and neighborhood basis; and

WHEREAS, some of these problems warranting attention include examination of basic city services and conditions like sidewalks, streets, ash and garbage removal, dilapidated buildings, tree trimming, street lighting, recreational facilities and the like; and

WHEREAS, these problems require the full awareness of responsible public officials on all levels of government;

BE IT THEREFORE RESOLVED, that this Common Council determine to conduct inspection tours of each councilmanic district at least once annually, such tours of inspection to be arranged and conducted by the district councilmen; and

BE IT FURTHER RESOLVED, that such inspection tours include the participation of all councilmen along with representation from the various city departments thus assuring greater communication between the Council and the administration in coping with the needs on a community and neighborhood basis.

Mr. Makowski moved approval of the resolution. (Seconded by Mr. Johnson.)

Lost.

Ayes — Frezyk, Johnson, Makowski, Mitchell, Morrisey, Slominski—6.

Noes — Black, Buyers, Elfvin, Goraki, Lewandowski, Lyman, Regan, Whalen—8.

No. 179.

By MR. LEWANDOWSKI:

Re: Question of Mandate.

WHEREAS, our public was led to believe that our board of education is under

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a mandate from our state commissioner of education to racially balance our public schools; and

WHEREAS, the above stated policy, if true is seemingly contrary to the legislative intent of section 313 of our state education law which states that equality of opportunity requires that students be admitted to educational institutions without regard to race, color, religion, creed or national origin; and

WHEREAS, at a recent meeting of our board of education on May 23, 1968, a member and former two term president of the board, stated that there are no mandates from our state commissioner of education; and

WHEREAS, it has been generally understood by our public prior to May 23, 1968, that our board of education was operating under a mandate, and now, that "public understanding" has been shattered by the admission of no-mandates, thereby creating doubts in both the public and private sectors of our community, whether or not there is, or ever was any legal mandate issued to our board of education; therefore be it

RESOLVED, that this Common Council request our Mayor to instruct his Corporation Counsel, to ask State Commissioner Allen whether or not, he ever officially mandated our board of education to racially balance our public schools; and to seek the legal opinion of our state attorney general as to the validity and enforceability of any such mandate.

Mr. Lewandowski moved approval of the resolution. (Seconded by Mrs. Slominski.)

Adopted.

Ayes—Buyers, Franczyk, Gorski, Lewandowski, Lyman, Makowski, Morrisey, Regan, Slominski, Whalen—10.

Noes—Black, Elfvin, Johnson, Mitchell—4.

No. 180.

By MR. LEWANDOWSKI:

Re: Installation of Flag-Pole Standards.

Resolved, that this Common Council hereby grant permission to the members of the Genesee-Pine Hill Businessmen's Association, Inc., to install flag standards in front of their places of business, such permission to be granted under conditions set forth by the Commissioner of Public Works.

Passed.

Ayes—14. Noes—None.

No. 181.

By MR. MAKOWSKI:

Public Hearing on Proposed Contract for Sale of Urban Renewal Land in the Thruway Industrial Park Pilot Project No. 1.

WHEREAS, the Commissioner of Urban Renewal has duly designated A. Klein & Son, as qualified and eligible developers for Parcel No. 2 in Block No. 1 of the Thruway Industrial Park Pilot Project No. 1.

NOW, THEREFORE, BE IT RESOLVED:

THAT, the City Clerk be and is hereby directed to publish the attached notice of Hearing in the Buffalo Evening News and the Buffalo Courier Express and the City Record on the 31st day of May 1968, and the 7th day of June 1968.

THAT, this Common Council will hold a public hearing on the proposed agreement, on the 11th day of June 1968.

Adopted.

NOTICE OF HEARING.

Re: Proposed Land Disposal Agreement for Redevelopment of Parcel No. 2 in Block No. 1 in the Thruway Industrial Park Pilot Project No. 1.

Pursuant to Section 507 (2)(d) of the General Municipal Law.

NOTICE is hereby given that a public hearing will be held before the Common Council of the City of Buffalo in the Council Chamber, City Hall, at 2.00 P.M. on the 11th day of June 1968, on the following matter.

Plaintiffs' Exhibit 173.

It is hereby certified, pursuant to Section 34 of the Charter, that the immediate passage of the foregoing ordinance is necessary.

WE, JOHN F. DOWNING, Commissioner of Public Works, and JAMES W. BURNS, Director of the Budget, hereby certify that the creation of the position of Typist in place of an existing position of Senior Clerk, in the Division of Engineering, is necessary for the proper conduct, administration and performance of essential services of that Division and to comply with Civil Service regulations and procedure relating to the classification of positions based upon the duties to be performed. We recommend that the compensation of said position be fixed at the amounts set forth in the foregoing ordinance.

That a personnel requisition incident to the creation of the above-mentioned position, containing a statement of the duties of said position, has been transmitted to the Municipal Civil Service Commission, and said Commission has approved and certified the position title set forth in the foregoing ordinance as being the appropriate Civil Service title for the proposed position, as set forth in Personnel Requisition No. 334.

JOHN F. DOWNING,
Commissioner of Public Works.

JAMES W. BURNS,
Director of the Budget.

Approved as to form:

ANTHONY MANGUSO,
Corporation Counsel.

Passed.

Ayes—14. Noes—None.

No. 220.

By MRS. SLOMINSKI:

Prohibition of Use of Relocatable Classrooms—Amendment to Building Code.

(Res. No. 161, C.C.P., May 14, 1968.)

The Common Council of the City of Buffalo do ordain as follows:

That the first paragraph of Section 201 of Chapter XII of the Ordinances of the City of Buffalo, reading as follows:

"§201. Schools, alternate requirements. Notwithstanding any other provisions of this chapter regulating the classification, design and construction of buildings or structures, it shall be lawful to erect in this city schools and colleges, including the auditoriums and gymnasiums connected therewith, designed, constructed and used in the manner set forth herein. This section shall only apply to such buildings or structures which do not exceed two stories in height; and this section may only take precedence over other applicable provisions of this chapter when, in the judgment of the director of buildings and subject to his approval, the requirements and provisions of this section will provide a safe, satisfactory and adequate building for the intended use."

shall be amended to read as follows:

§201. Schools, special restrictions and alternate requirements. Notwithstanding any other provisions of this chapter regulating the classification, design, construction or location of buildings or structures, when there presently exists on any site a building or buildings used and occupied for school classrooms or other school purposes, no additional buildings or structures shall be erected or placed on said site unless the additional building or structure is of the same type of construction as the main building located thereon.

Subject to the foregoing limitation, it shall be lawful to erect in this city schools and colleges, including the auditoriums and gymnasiums connected therewith, designed, constructed and used in the manner set forth herein, any other provisions of this chapter to the contrary notwithstanding. This section shall only apply to such buildings or structures which do not exceed two stories in height; and this section may only take precedence over other applicable provisions of this chapter when, in the judgment of the director of buildings and subject to his approval, the requirements and provisions of this section will provide a safe, satisfactory and adequate building for the intended use.

(Note: Matter underlined is new.)

It is hereby certified, pursuant to Section 34 of the Charter, that the immediate passage of the foregoing ordinance is necessary.

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Plaintiffs' Exhibit 173.

Prepared pursuant to Resolution No. 161, C.C.P., May 14, 1968.

ANTHONY MANGUSO,
Corporation Counsel.

Mr. Lewandowski moved to strike out the immediate passage clause; seconded by Mr. Buyers.

Carried.

Ayes—Black, Buyers, Elfvin, Franczyk, Gorski, Lewandowski, Lyman, Makowski, Morrisey, Regan, Slominski, Whalen—12.

Noes—Johnson, Mitchell—2.

Mr. Makowski now moved to refer to Committee on Legislation; seconded by Mr. Mitchell.

Adopted.

No. 221.

By Mr. WHALEN:

Appointments—Commissioners of Deeds.

That the following named persons are hereby appointed as Commissioners of Deeds for the term ending December 31, 1968, conditional upon the persons so appointed certifying under oath to their qualifications and filing same with the City Clerk:

Angela Albanese, Alton L. Bowens, Patrick T. Creenan, Joseph E. David, Jr., Jessie Melson, John Mose, Mary J. McAuley, Judith M. Rozik, Mervyn J. Schwartz, Raymond A. Smith.

Total—10.

Adopted.

No. 222.

By Mr. WHALEN:

Appointments — Commissioners of Deeds Required for the Proper Performance of Public Duties.

That the following named persons are hereby appointed as Commissioners of Deeds for the term ending December 31, 1968, conditional upon the persons so appointed certifying under oath to their qualifications and filing same with the City Clerk:

Norman P. Baltes.

Total—1.

Adopted.

UNFINISHED BUSINESS.

No. 223.

City of Buffalo — Local Law No..... Introductory No. 4 (1968).

A local law amending Section four hundred fifty-one of the Charter, in relation to the salaries of elective officers.

Mr. Makowski moved that Local Law, Introductory No. 4 (1968) (Res. No. 158, C.C.P., May 14, 1968) be taken from the table.

Carried.

Mr. Makowski moved the passage of Local Law, Introductory No. 4 (1968) (Res. No. 158, C.C.P., May 14, 1968).

Passed.

Ayes—14. Noes—None.

ticle XXI, Chapter V of the Ordinances, to read as follows:

"§ 350-a. Attendants. Every parking lot shall have at least one parking attendant upon the premises at all times during the hours of operation as posted".

(Note: Matter underlined is new; matter in brackets is old law to be omitted)

IT IS HEREBY CERTIFIED, pursuant to Section 34 of the Charter, that the immediate passage of the foregoing ordinance is necessary.

APPROVED AS TO FORM:

ANTHONY MANGUSO,
Corporation Counsel.

Recommended by the Committee on Legislation.

DELMAR L. MITCHELL,
Chairman.

Passed.

Ayes—13 Noes—None.

No. 148.

Prohibition of Use of Relocatable Classrooms—Amendment to Building Code.

(Res. No. 161, C.C.P., May 14, 1968.)

(Res. No. 220, C.C.P., May 28, 1968.)

The Common Council of the City of Buffalo do ordain as follows:

That the first paragraph of Section 201 of Chapter XII of the Ordinances of the City of Buffalo, reading as follows:

"§201. Schools, alternate requirements. Notwithstanding any other provisions of this chapter regulating the classification, design and construction of buildings or structures, it shall be lawful to erect in this city schools and colleges, including the auditoriums and gymnasiums connected therewith, designed, constructed and used in the manner set forth herein. This section shall only apply to such buildings or structures which do not exceed two stories in height, and this section may only take precedence over other applicable provisions of this chapter when, in the judgment of the director of buildings and subject to his approval, the requirements and provisions of this section will provide a safe, satisfactory and adequate building for the intended use."

shall be amended to read as follows:

§201. Schools, special restrictions and alternate requirements. Notwithstanding any other provisions of this chapter regulating the classification, design, construction or location of buildings or structures, when there presently exists on any site a building or buildings used and occupied for school classrooms or other school purposes, no additional buildings or structures shall be erected or placed on said site unless the additional building or structure is of the same type of construction as the main building located thereon.

Subject to the foregoing limitation, it shall be lawful to erect in this city schools and colleges, including the auditoriums and gymnasiums connected therewith, designed, constructed and used in the manner set forth herein, any other provisions of this chapter to the contrary notwithstanding. This section shall only apply to such buildings or structures which do not exceed two stories in height; and this section may only take precedence over other applicable provisions of this chapter when, in the judgment of the director of buildings and subject to his approval, the requirements and provisions of this section will provide a safe, satisfactory and adequate building for the intended use.

(Note: Matter underlined is new).

PREPARED PURSUANT TO RESOLUTION NO. 161, C.C.P., MAY 14, 1968.

ANTHONY MANGUSO,
Corporation Counsel

Recommended by Committee on Legislation, Delmar L. Mitchell, Chairman.

Mr. Mitchell moved the approval of the foregoing committee report; seconded by Mrs. Slominski.

Mr. Johnson as an amendment moved to Table; seconded by Mr. Black.

Lost.

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Ayes—Black, Gorski, Johnson, Makowski, Mitchell—5.

Noes—Buyers, Elfvin, Franczyk, Lewandowski, Lyman, Regan, Slominski, Whalen—8.

A vote was then taken on the original motion of Mr. Mitchell to approve the committee report.

Passed.

Ayes—Buyers, Elfvin, Franczyk, Gorski, Lewandowski, Lyman, Regan, Slominski, Whalen—9.

Noes—Black, Johnson, Makowski, Mitchell—4.

No. 149.

Proposed Curb Extension and Mall Construction at Day's Park, Wadsworth and Allen Streets—Allentown-Lakeview Code Enforcement Program—NY E-5.

(Item No. 88, C.C.P., May 28, 1968.)

That Item No. 88, C.C.P., May 28, 1968, be and the same is hereby returned to the Common Council without recommendation.

Recommended by the Committee on Legislation.

DELMAR L. MITCHELL,
Chairman.

Recommitted to the Committee on Legislation.

RESOLUTIONS.

No. 150.

By Mr. BUYERS:

Amend Rules of Order Common Council.

BE IT RESOLVED, that the Rules of Order of the Common Council be amended to include rules prohibiting the following:

1. The wearing of any kind of headgear by males.
2. The standing of anyone in the aisles, stairways or rear of Council Chamber while Council is in session.
3. The admission of more spectators to the Council Chamber than can be seated.

Mr. Makowski moved to receive and file the resolution. (Seconded by Mr. Mitchell.)

Lost.

Ayes—Black, Franczyk, Gorski, Johnson, Makowski, Mitchell, Whalen—7.

Noes — Buyers, Elfvin, Lewandowski, Lyman, Regan, Slominski—6.

Mr. Elfvin moved to refer the resolution to the Commitee on Rules. (Seconded by Mr. Lyman.)

Adopted.

Ayes—Buyers, Elfvin, Franczyk, Lewandowski, Lyman, Regan, Slominski, Whalen—8.

Noes—Black, Gorski, Johnson, Makowski, Mitchell—5.

No. 151.

By Mr. BUYERS:

Serve Railroads With Summons.

BE IT RESOLVED, that this Common Council request the Corporation Counsel to immediately serve a summons and complaint for littering on the New York Central R.R. and the Erie-Lackawanna R.R.

Adopted.

Plaintiffs' Exhibit 175.

No. 258.

By MR. JOHNSON:

Re: Employment Practices of City Contractors.

WHEREAS, this Common Council has declared that discrimination in employment on account of race, color, creed or national origin be eliminated to the extent that it exists in businesses that contract with the City of Buffalo, as expressed in Resolution No. 161.

NOW, THEREFORE,

BE IT RESOLVED, that this Common Council directs the City Comptroller, who is responsible for the enforcement of Labor Law, Section 220-E, to insert a clause in all contracts with contractors, with this City, be it construction, contract or others, that the contractor, when in need of employees, will, if he does not have a contractual obligation with a union to use the union as an exclusive hiring hall to obtain his employees, to notify the New York State Employment Service of the availability of all positions, at the same time the employer notifies any other sources in order to insure access to such positions by all prospective workers regardless of their color, creed or national origin.

Referred to the Committee on Legislation, Comptroller and the Corporation Counsel.

No. 259.

By MR. JOHNSON:

Re: Discrimination in Housing.

WHEREAS, the Corporation Counsel has interpreted, the recent Supreme Court Decision, relating to The Civil Rights Act of 1966, as banning Racial Discrimination in the rental of units in owner, occupied 2 family houses, an[illegible]

WHEREAS, the City of Buffalo, has an extraordinary problem, in that category, and;

WHEREAS, there is no formal agency available, to enforce the Rights, given under the provisions of The Civil Rights Act of 1966;

NOW, THEREFORE,

BE IT RESOLVED: That this Common Council, in recognition, that the cost to the individual citizen, who is so aggrieved, may preclude, his ability to take his case to a Federal Court, for proper remedy; hereby, designates the City Commission on Human Relations, as the agency to investigate such cases and directs that the Commission, upon determination that a violation exists, turn the matter over to the Corporation Counsel for action in Federal Court to protect the Rights of the Citizens of this City as they seek to live where they desire, and their means permit.

Mr. Makowski moved to refer the resolution to the Committee on Legislation and the Corporation Counsel.

(Seconded by Mr. Johnson.)

Mr. Lyman moved as amendment to receive and file. (Seconded by Mr. Lewandowski.)

Lost.

Ayes—Buyers, Elfvin, Franczyk, Lewandowski, Lyman, Slominski, Whalen —7.

Noes—Black, Johnson, Makowski, Mitchell, Morrisey, Perla Regan—7.

Mr. Makowski moved his original motion to refer to the Committee on Legislation and the Corporation Counsel.

Lost.

Ayes—Black, Johnson, Makowski, Mitchell, Morrisey, Perla, Regan—7.

Noes—Buyers, Elfvin, Franczyk, Lewandowski, Lyman, Slominski, Whalen —7.

66

1601

Plaintiffs' Exhibit 176. No. 13

Common Council Proceedings

OF THE

CITY OF BUFFALO

June 25, 1968

Pension Proceedings June 28, 1968

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Plaintiffs' Exhibit 176.

Owner	Premises	Cost of Demolition	Settlement
Lexington Homes	79 Lemon St.	$1,395.00	$697.50
Chesbro	1173-75 Main St.	$ 300.00	$150.00
Ricchiazzi	84 Breckenridge St.	$1,117.00	$558.50

Checks representing these settlements, payable to the City of Buffalo, have been received and accepted by this office in compromise thereof. Said checks thereupon have been forwarded to the Office of the City Treasurer for deposit.

Received and filed.

No. 71.

Buffalo, June 21, 1968.

Re: Preparation of Open Housing Ordinance.

(Item No. 176, C.C.P., May 28, 1968.)

Your Honorable Body has referred to this office for opinion the legality of the proposed resolution which would direct the Corporation Counsel to prepare an appropriate ordinance prohibiting discrimination because of race, color, creed or national origin in the sale or rental of all housing accommodations consisting of one or two-family dwellings.

After the Thirteenth Amendment of the U. S. Constitution reading:

"Section 1. Neither slavery nor involuntary servitude, except as a punishment for a crime whereof the party shall have been duly convicted, shall exist within the United States or any place subject to their jurisdiction. Section 2. Congress shall have power to enforce this article by appropriate legislation."

the Congress of the United States in 1866 passed an Act in 42 U. S. Code, § 1982, which provided:

"All citizens of the United States shall have the same right, in every State and Territory, as is enjoyed by white citizens thereof to inherit, purchase, lease, sell, hold and convey real and personal property."

In 1965, Joseph Lee Jones, a Negro, and his wife, a white woman, instituted an action against Alfred H. Mayer Co., et al., in the U. S. District Court for the Eastern District of Missouri to enjoin the defendant and for assessment of damages on the ground that the said Mayer Company violated their rights by refusing to sell them a home in a community of St. Louis County.

The Lower Courts dismissed the complaint, however, on a writ of certiorari to the U. S. Supreme Court, the Supreme Court by decision rendered June 17, 1968, reversed the Lower Courts and sustained the right of the petitioners to buy the home, the subject of the lawsuit. The Court held that § 1982 of the U. S. Code prohibited discrimination in the sale or rental of all housing accommodations.

It made the following pertinent statements:

"• • • We hold that § 1982 bars all racial discrimination, private as well as public, in the sale or rental of property, and that the statute, thus construed, is a valid exercise of the power of Congress to enforce the Thirteenth Amendment."

• • •

"We begin with the language of the statute itself. In plan and unambiguous terms, § 1982 grants to all citizens, without regard to race or color, 'the same right' to purchase and lease property 'as is enjoyed by white citizens.' As the Court of Appeals in this case evidently recognized, that right can be impaired as effectively by 'those who place property on the market' as by the State itself. For, even if the State and its agents lends no support to those who wish to exclude persons from their communities on racial grounds, the fact remains that, whenever property 'is placed on the market for whites only, whites have a right denied to Negroes.' So long as a Negro citizen who wants to buy or rent a home can be turned away simply because he is not white, he cannot be said to enjoy 'the same right . . . as is enjoyed by white citizens . . . to . . . purchase [and] lease . . . real and personal property.' [Emphasis added]

"On its face, therefore, § 1982 appears to prohibit all discrimination against Negroes in the sale or rental of property — discrimination by private owners as well as discrimination by public authorities. Indeed, even the respondents

seem to concede that. If § 1982 'means what it says' — to use the words of the respondents' brief — then it must encompass every racially motivated refusal to sell or rent and cannot be confined to officially sanctioned segregation in housing. Stressing what they consider to be the revolutionary implications of so literal a reading of § 1982, the respondents argue that Congress cannot possibly have intended any such result. Our examination of the relevant history, however, persuades us that Congress meant exactly what it said."

• • •

" • • • Hence the structure of the 1866 Act, as well as its language, points to the conclusion urged by the petitioners in this case -- that § 1 was meant to prohibit all racially motivated deprivations of the rights enumerated in the statute, although only those deprivations perpetrated 'under color of law' were to be criminally punishable under § 2."

• • •

"In light of the concerns that led Congress to adopt it and the contents of the debates that preceded its passage, it is clear that the Act was designed to do just what its terms suggest: to prohibit all racial discrimination, whether or not under color of law, with respect to the rights enumerated therein — including the right to purchase or lease property."

• • •

"As its text reveals, the Thirteenth Amendment 'is not a mere prohibition of State laws establishing or upholding slavery, but an absolute declaration that slavery or involuntary servitude shall not exist in any part of the United States.' Civil Rights Cases, 109 U.S. 3, 20. It has never been doubted, therefore, 'that the power vested in Congress to enforce the article by appropriate legislation,' ibid., includes the power to enact laws 'direct and primary operating upon the acts of individuals, whether sanctioned by State legislation or not.' Id., at 23.

"Thus, the fact that § 1982 operates upon the unofficial acts of private individuals, whether or not sanctioned by state law, presents no constitutional problem."

• • •

" • • • Negro citizens North and South, who saw in the Thirteenth Amendment a promise of freedom — freedom to 'go and come at pleasure' and to 'buy and sell when they please' — would be left with 'a mere paper guarantee' if Congress were powerless to assure that a dollar in the hands of a Negro will purchase the same thing as a dollar in the hands of a white man. At the very least, the freedom that Congress is empowered to secure under the Thirteenth Amendment includes the freedom to buy whatever a white man can buy, the right to live wherever a white man can live. If Congress cannot say that being a free man means at least this much, then the Thirteenth Amendment made a promise the Nation cannot keep."

The Court, in its opinion, differentiated the section in question from the Civil Rights Act of 1968 passed by the U. S. Congress effective January 1, 1969 by pointing out (1) that the section at issue was enforceable only in a civil action instituted by private individuals; (2) was not as broad and inclusive as to acts of discrimination in the various other fields contained in the 1968 law and did not provide for enforcement of civil rights by the arm and "arsenal" of the U. S. Government itself. It further held that the 1866 law, which the Congress was aware of when it passed the 1968 law was not repealed by implication nor was any provision contained therein that it was the intent to repeal the Act of 1866.

Therefore, in view of the aforesaid decision of June 17, 1968 herein recited that Section 1982 is still legally valid and enforceable and the law of the land as approved by the U. S. Supreme Court affecting in its application all levels of government until amended, altered or changed by another Act of Congress, it is my opinion that your Honorable Body has the power and authority to adopt an appropriate ordinance to prohibit discrimination in the purchase, sale or rental of any and all housing accommodations and may provide in said ordinance the scope, procedure and penalties for the enforcement thereof.

Referred to the Committee on Legislation.

No. 72.

Buffalo, June 21, 1968.

Re: St. Paul's Church — Include Portion of Erie Street in N.Y.S. Beautification Program at Shelton Square.

(Item No. 104, C.C.P., May 28, 1968.)

I submit herewith communication from St. Paul's Church, together with con-

Plaintiffs' Exhibit 177. No. 13

Common Council Proceedings

OF THE

CITY OF BUFFALO

June 25, 1968

Pension Proceedings June 28, 1968

Plaintiffs' Exhibit 177.

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It made the following pertinent statements:

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"We begin with the language of the statute itself. In plan and unambiguous terms, § 1982 grants to all citizens, without regard to race or color, 'the same right' to purchase and lease property 'as is enjoyed by white citizens.' As the Court of Appeals in this case evidently recognized, that right can be impaired as effectively by 'those who place property on the market' as by the State itself. For, even if the State and its agents lends no support to those who wish to exclude persons from their communities on racial grounds, the fact remains that, whenever property 'is placed on the market for whites only, whites have a right denied to Negroes.' So long as a Negro citizen who wants to buy or rent a home can be turned away simply because he is not white, he cannot be said to enjoy 'the same right . . . as is enjoyed by white citizens . . . to . . . purchase [and] lease . . . real and personal property.' [Emphasis added]

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" • • • Hence the structure of the 1866 Act, as well as its language, points to the conclusion urged by the petitioners in this case -- that § 1 was meant to prohibit all racially motivated deprivations of the rights enumerated in the statute, although only those deprivations perpetrated 'under color of law' were to be criminally punishable under § 2."

• • •

"In light of the concerns that led Congress to adopt it and the contents of the debates that preceded its passage, it is clear that the Act was designed to do just what its terms suggest: to prohibit all racial discrimination, whether or not under color of law, with respect to the rights enumerated therein — including the right to purchase or lease property."

• • •

"As its text reveals, the Thirteenth Amendment 'is not a mere prohibition of State laws establishing or upholding slavery, but an absolute declaration that slavery or involuntary servitude shall not exist in any part of the United States.' Civil Rights Cases, 109 U. S. 3, 20. It has never been doubted, therefore, 'that the power vested in Congress to enforce the article by appropriate legislation,' ibid., includes the power to enact laws 'direct and primary operating upon the acts of individuals, whether sanctioned by State legislation or not.' Id., at 23.

"Thus, the fact that § 1982 operates upon the unofficial acts of private individuals, whether or not sanctioned by state law, presents no constitutional problem."

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" • • • Negro citizens North and South, who saw in the Thirteenth Amendment a promise of freedom — freedom to 'go and come at pleasure' and to 'buy and sell when they please' — would be left with 'a mere paper guarantee' if Congress were powerless to assure that a dollar in the hands of a Negro will purchase the same thing as a dollar in the hands of a white man. At the very least, the freedom that Congress is empowered to secure under the Thirteenth Amendment includes the freedom to buy whatever a white man can buy, the right to live wherever a white man can live. If Congress cannot say that being a free man means at least this much, then the Thirteenth Amendment made a promise the Nation cannot keep."

The Court, in its opinion, differentiated the section in question from the Civil Rights Act of 1968 passed by the U. S. Congress effective January 1, 1969 by pointing out (1) that the section at issue was enforceable only in a civil action instituted by private individuals; (2) was not as broad and inclusive as to acts of discrimination in the various other fields contained in the 1968 law and did not provide for enforcement of civil rights by the arm and "arsenal" of the U. S. Government itself. It further held that the 1866 law, which the Congress was aware of when it passed the 1968 law was not repealed by implication nor was any provision contained therein that it was the intent to repeal the Act of 1866.

Therefore, in view of the aforesaid decision of June 17, 1968 herein recited that Section 1982 is still legally valid and enforceable and the law of the land as approved by the U. S. Supreme Court affecting in its application all levels of government until amended, altered or changed by another Act of Congress, it is my opinion that your Honorable Body has the power and authority to adopt an appropriate ordinance to prohibit discrimination in the purchase, sale or rental of any and all housing accommodations and may provide in said ordinance the scope, procedure and penalties for the enforcement thereof.

Referred to the Committee on Legislation.

No. 72.

Buffalo, June 21, 1968.

Re: St. Paul's Church — Include Portion of Erie Street in N.Y.S. Beautification Program at Shelton Square.

(Item No. 104, C.C.P., May 28, 1968.)

I submit herewith communication from St. Paul's Church, together with con-

Plaintiffs' Exhibit 178.

Planning

No. 8.

Bond Resolution Authorizing the Issuance of $142,000.00 School (Serial) 1968 Bonds of the City of Buffalo, N. Y., for the Acquisition of Original Equipment, Machinery, Apparatus or Furnishings or the Replacement Thereof, for the Board of Education of the City of Buffalo.

Mr. Makowski moved that Resolution No. 197, C.C.P., May 28, 1968; bond resolution authorizing the issuance of $142,000.00 school (serial) 1968 bonds of the City of Buffalo, N. Y., for the acquisition of original equipment, machinery, apparatus or furnishings or the replacement thereof, for the Board of Education of the City of Buffalo, be taken from the table.

Carried.

Mr. Makowski moved the approval of the resolution.

Passed.

Ayes—Black, Elfvin, Franczyk, Gorski, Johnson, Lewandowski, Lyman, Makowski, Mitchell, Morrisey, Perla, Regan, Whalen—13.

Noes—Buyers, Slominski—2.

No. 9.

Councilman Elfvin was excused from attendance at this adjourned Council meeting for an indefinite period of time.

Carried.

No. 10.

Bond Resolution Authorizing the Issuance of $380,000.00 School (Serial) 1968 Bonds of the City of Buffalo, N. Y., For the Construction of Class "A" (Fireproof) Public Middle School Buildings For the Board of Education of The City of Buffalo.

Mr. Makowski moved that Resolution No. 203, C.C.P., May 28, 1968; bond resolution authorizing the issuance of $380,000.00 (serial) 1968 bonds of the City of Buffalo, N. Y., for the construction of class "A" (fireproof) public middle school buildings for the Board of Education of the City of Buffalo, be taken from the table.

Carried.

Mr. Makowski moved the approval of the resolution.

Lost.

Ayes—Black, Buyers, Gorski, Johnson, Makowski, Mitchell, Morrisey, Regan—8.

Noes—Franczyk, Lewandowski, Lyman, Perla, Slominski, Whalen—6.

No. 11.

Bond Resolution Authorizing the Issuance of $712,000.00 School (Serial) 1968 Bonds of The City of Buffalo, N. Y., For The Construction of a New Class "A" (Fireproof) Addition to Emerson Vocational High School Building For The Board of Education of The City of Buffalo.

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Mr. Makowski moved that Resolution No. 205, C.C.P., May 28, 1968; bond resolution authorizing the issuance of $712,000.00 school (serial) 1968 bonds of the City of Buffalo, N. Y., for the construction of a new Class "A" (fireproof) addition to Emerson Vocational High School Building for the Board of Education of the City of Buffalo, be taken from the table.

Carried.

Mr. Makowski moved the approval of the resolution.

Passed.

Ayes—Black, Buyers, Franczyk, Gorski, Johnson, Lewandowski, Lyman, Makowski, Mitchell, Morrisey, Perla, Regan, Whalen—13.

Noes—Slominski—1.

No. 12.

Councilman Elfvin now took his seat in the Chamber again.

Plaintiffs' Exhibit 179.

N. Y., for the Construction of Class "A" (Fireproof) Public Middle School Buildings for the Board of Education of the City of Buffalo.

(2) Bond Resolution Authorizing the Issuance of $997,000.00 School (Serial) 1968 Bonds of The City of Buffalo, N. Y., for the Construction of Class "A" (Fireproof) Public Junior High School Buildings (Hertel Middle School) for the Board of Education of the City of Buffalo.

DANIEL L. DROPIK,
City Clerk,
City of Buffalo.

No. 2.

By MR. MORRISEY:

Bond Resolution Authorizing the Issuance of $380,000.00 School (Serial) 1968 Bonds of the City of Buffalo, N. Y., for the Construction of Class "A" (Fireproof) Public Middle School Buildings for the Board of Education of the City of Buffalo.

Resolved that the Comptroller of the City of Buffalo, N. Y., be and he is hereby authorized and directed to issue School (Serial) 1968 Bonds of the City of Buffalo in the amount of Three Hundred and Eighty Thousand Dollars ($380,000.00), pursuant to the provisions of the Charter of the City of Buffalo and the Local Finance Law of the State of New York, for the purpose of raising money for the construction of Class "A" (fireproof) Public Middle School Buildings, including original furnishings, equipment, machinery or apparatus required for the purpose for which said buildings are to be used, for the Board of Education of the City of Buffalo.

It is estimated that the maximum cost of the object or purpose for which said bonds are to be issued, as determined in the 1968/1969 Capital Budget duly adopted by this Common Council, is Four Hundred Thousand Dollars ($400,000.00). Pursuant to Section 107.00 of the Local Finance Law, a down payment of $20,000.00 shall be provided, prior to the issuance of bonds or bond anticipation notes pursuant to this resolution, by the transfer of funds provided for this purpose in the duly adopted budget of the City of Buffalo for the fiscal year of 1968/1969.

The principal of and interest on said bonds shall be payable at the office of the Comptroller of the City of Buffalo, in Buffalo, New York, or at the holder's option in New York City at the principal office of the City of Buffalo's paying agent, which, until otherwise designated by said City, shall be the Manufacturers Hanover Trust Company, in lawful money of the United States of America, in such installments and at such times as the Comptroller may determine consistently with this resolution and with the provisions of the Local Finance Law. Interest on all of said bonds shall be payable semi-annually from the date thereof. Said bonds shall be sold by the Comptroller in the manner provided by law.

All of said bonds hereby authorized and directed to be issued and sold shall be in coupon form and dated as of the date of issue by the Comptroller and shall bear interest at a rate not to exceed five per centum (5%) per annum, and at such definite rate of interest, expressed in multiples of one-quarter (¼th) or one-tenth (1/10th) of one per centum (1%), as shall be obtained at such sale and as shall be deemed by the Comptroller most favorable to the City, but at no higher rate of interest than shall be required to insure the sale of the bonds at par, and all of said bonds so authorized and directed to be issued and sold which shall be sold at one sale shall bear the same rate of interest.

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Provision for the payment of the interest on and the principal of said bonds as the same become due shall be made in the annual estimate of the Comptroller and the amount necessary to pay such interest and principal shall be raised annually by tax.

Sub-division 11 (a) (1) of Paragraph a. of Section 11.00 of the Local Finance Law applies to the object or purpose for which said bonds are to issued, and it is hereby found and determined that the period of probable usefulness of the object or purpose thereof is thirty years.

The bonds authorized by this resolution may be contested only if such obligations are authorized for an object or purpose for which the City of Buffalo is not authorized to expend money, or the provisions of law which should be complied with at the date of publication of this resolution after it takes effect are not substantially complied with, and an action, suit or proceeding contesting such validity is commenced within twenty days after the date of such publication, or said bonds are authorized in violation of the provisions of the Constitution.

The proceeds of the sale of said bonds shall be paid to the City Treasurer and

Deeds for the term ending December 31, 1968, conditional upon the persons so appointed certifying under oath to their qualifications and filing same with the City Clerk: Thomas E. Butler, Carl P. Eberhard, Nancy Shaw and Joseph J. Wozow, Bernice A. Wright.

Total: 5.

Adopted.

UNFINISHED BUSINESS.

No. 250.

Re: West Hertel Middle School Bond Issue.

Mr. Makowski moved that Resolution No. 176, C.C.P., September 24, 1968; Re: West Hertel middle school bond issue, be taken from the table.

Carried.

Mr. Makowski moved that the Resolution be and hereby is received and filed.

Adopted.

No. 251.

Bond Resolution Authorizing The Issuance of $997,000.00 School (Serial) 1968 Bonds of The City of Buffalo, N. Y., For The Construction Of A Class "A" (Fireproof) Public Junior High School Building (Hertel Middle School) For The Board of Education of The City of Buffalo.

(Res. 3, C.C.P., August 6, 1968.)

Mr. Makowski moved that Resolution No. 219, C.C.P., September 10, 1968; bond resolution authorizing the issuance of $997,000.00 school (serial) 1968 bonds of the City of Buffalo, N. Y., for the construction of a class "A" (fireproof) public junior high school building (Hertel middle school) for the board of education of the City of Buffalo (Res. 3, C.C.P., August 6, 1968), be taken from the table.

Carried.

Ayes—Black, Buyers, Elfvin, Franczyk, Gorski, Johnson, Makowski, Mitchell, Morrisey, Perla, Regan Slominski, Whalen—13.

Noes—Lewandowski—1.

Mr. Makowski moved the passage of the resolution (seconded by Mr. Mitchell)

Passed.

Ayes—Black, Elfvin, Franczyk, Gorski, Johnson, Makowski, Mitchell, Morrisey, Perla, Regan—10.

Noes—Buyers, Lewandowski, Slominski, Whalen—4.

No. 252.

Bond Resolution Authorizing The Issuance of $1,900,000.00 General Improvement Water Supply (Serial) 1968 Bonds of The City of Buffalo, N. Y.

Mr. Makowski moved that Resolution No. 186, C.C.P., September 24, 1968; bond resolution authorizing the issuance of $1,900,000.00 general improvement water supply (serial) 1968 bonds of the City of Buffalo, N. Y., be taken from the table.

Carried.

Mr. Makowski moved the passage of the resolution.

Passed

Ayes—14. Noes—None.

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Plaintiffs' Exhibit 181.

foregoing ordinance as being the appropriate Civil Service title for the proposed position, as set forth in Personnel Requisition No. 676.

RICHARD L. MILLER,
Commissioner of Urban Renewal.

EUGENE W. FITZGERALD,
Director of Planning.

JAMES W. BURNS,
Director of the Budget.

Approved as to Form:

ANTHONY MANGUSO,
Corporation Counsel.

Passed.

Ayes—14. Noes—None.

No. 213.

By Mr. REGAN:

Property Taxes on Grain Facilities.

WHEREAS, a thorough report on Buffalo's historic role as a grain trading and processing center, published by the Greater Buffalo Development Foundation and sponsored by the Buffalo and Erie County Economic Development Committee, was made public July 27, 1968; and

WHEREAS, this report noted the decline of the grain industry in Buffalo and cited and claimed that among factors having a negative effect on the industry were excessive property taxes on grain facilities.

NOW, THEREFORE, BE IT

RESOLVED, that the Buffalo Board of Assessors undertake a review of the property tax valuations for the year 1968-1969 on Buffalo's flour, feed and grain storage facilities.

Referred to Board of Assessors.

No. 214

By Mr. WHALEN:

Request Opinions Relative to Bond Resolutions for Middle Schools.

WHEREAS, Bond resolutions have been approved for the construction of Public Junior High Schools for the Board of Education, and

WHEREAS, the Board of Education now intends using these appropriations for the construction of Middle Schools, which change was not authorized by this Council, and

WHEREAS, this Council passed the original Bond resolutions specifically for the construction of Junior High Schools, and may not have passed them for Middle Schools, and

WHEREAS, this change from Junior High Schools to Middle Schools brings about a serious doubt as to the integrity, intent and legality of the procedure involved.

NOW THEREFORE, BE IT

RESOLVED, that this Council directs the Corporation Counsel and the Comptroller to submit, for the next stated meeting, their written opinion as to the legality of this whole procedure.

Mr. Makowski moved to receive and file; seconded by Mr. Mitchell.

As an amendment, Mr. Whalen moved the adoption; seconded by Mr. Lyman.

Adopted.

Ayes—Buyers, Franczyk, Lewandowski, Lyman, Perla, Regan, Slominski, Whalen—8.

Noes—Black, Gorski, Johnson, Makowski, Mitchell, Morrissey—6.

No. 215.

Br. Mr. WHALEN:

Certain Bond Issue Questions to be Placed on the Voting Machines.

WHEREAS, serious doubt has arisen as to the integrity, intent, and legality of

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Plaintiffs' Exhibit 181.

W. Hunter

certain bond issues before this Council, and,

WHEREAS, the citizens of Buffalo are entitled to express their views on Junior High or Middle School construction,

NOW, THEREFORE, BE IT

RESOLVED, that pursuant to Section 414 of the Charter of the City of Buffalo, the Common Council, desirous of placing before the people at the November 5, 1968, General Election the question of whether or not they favor the Common Council approving these funds for Middle School construction, hereby submits the following questions to be placed on the voting machines:

"Should the bond resolution authorizing the issuance of $997,000.00 School (Serial) 1968 Bonds of the City of Buffalo, N. Y., For the construction of a Class "A" (Fireproof) Public Junior High School Building (Hertel Middle School) for the Board of Education of the City of Buffalo, be approved?"

"Should the bond resolution authorizing the issuance of $380,000.00 School (Serail) 1968 Bonds of the City of Buffalo, N. Y., for the construction of Class "A" (Fireproof) Public Middle School Buildings for the Board of Education of the City of Buffalo, be approved?"

and directs the Corporation Counsel to inform this Council at the next stated meeting whether or not said questions are in proper form for submission to the electorate.

Referred to the Corporation Counsel.

No. 216.

By MR. WHALEN:

Appointments—Commissioners of Deeds.

That the following named persons are hereby appointed as Commissioners of Deeds for the term ending December 31, 1968, conditional upon the persons so appointed certifying under oath to their qualifications and filing same with the City Clerk:

Barbara Bachorczyk, John M. Bertok, Regina G. Burke, Salvatore J. Campagna, Candace Caviness, Helen Cermak, Patricia C. Cuddihy, James Hemphill, George V. Henel, Jeanine G. Hubert, James E. Hunter, Michael J. Lawler, Ann C. Mehner, Michael R. Mitchell, James W. Ulaszewski, Anthony F. Vaccaro, Linda Wiseman, Gwendolyn Williams, Joseph J. Wozow.

Total: 19.

Adopted.

No. 217.

By MR. WHALEN:

Appointments—Commissioners of Deeds Required for the Proper Performance Of Public Duties.

That the following named persons are hereby appointed as Commissioners of Deeds for the term ending December 31, 1968 conditional upon the persons so appointed certifying under oath to their qualifications and filing same with the City Clerk:

Howard M. Adema, Roman A. Gorny, Frank J. Runfola, Susan M. Krause.

Total: 4.

Adopted.

No. 218.

Councilman Elfvin now appeared in his seat in the Council Chamber.

UNFINISHED BUSINESS.

No. 219.

Bond Resolution Authorizing the Issuance of $997,000.00 School (Serial) 1968 Bonds of the City of Buffalo, N. Y., for the Construction of a Class "A" (Fireproof) Public Junior High School Building (Hertel Middle School) for the Board of Education of the City of Buffalo.

Mr. Makowski moved that Resolution No. 3, C.C.P., August 6, 1968; bond reso-

Plaintiffs' Exhibit 181.

lution authorizing the issuance of $997,000.00 school (serial) 1968 bonds of the City of Buffalo, N. Y., for the construction of a class "A" (fireproof) public Junior High School building (Hertel Middle School) for the Board of Education of the City of Buffalo, be taken from the table. (Seconded by Mr. Mitchell.)

Carried.

Mr. Makowski moved the approval of the resolution. (Seconded by Mr. Mitchell.)

Lost.

Ayes—Black, Franczyk, Gorski, Johnson, Makowski, Mitchell, Morrisey, Perla, Regan—9.

Noes—Buyers, Elfvin, Lewandowski, Lyman, Slominski, Whalen—6.

Mr. Mitchell moved to reconsider the item. (Seconded by Mr. Johnson.)

Carried.

Ayes—Black, Elfvin, Franczyk, Gorski, Johnson, Makowski, Mitchell, Morrisey, Perla, Regan, Whalen—11.

Noes—Buyers, Lewandowski, Lyman, Slominski—4.

Mr. Makowski made a motion to have the item lay on the table. (Seconded by Mr. Mitchell.)

Adopted.

Ayes—15. Noes—None.

No. 220.

Veto Message—Advisory Referendum Portable Classrooms.

(Item No. 145, C.C.P., May 14, 1968.)

Mr. Lewandowski moved that Item No. 1, C.C.P., June 11, 1968 — veto message—advisory referendum portable classrooms (Item No. 145, C.C.P., May 14, 1968) be taken from the table.

Carried.

Ayes — Buyers, Elfvin, Franczyk, Lewandowski, Lyman, Regan, Slominski, Whalen—8.

Noes — Black, Gorski, Johnson, Makowski, Mitchell, Morrisey, Perla—7.

Mr. Makowski moved to receive and file the foregoing Item, seconded by Mr. Mitchell.

Adopted.

Ayes — Black, Elfvin, Gorski, Johnson, Makowski, Mitchell, Morrisey, Perla, Regan, Slominski, Whalen—11.

Noes — Buyers, Franczyk, Lewandowski, Lyman—4.

No. 221.

Announcement of Committee Meetings.

FINANCE: Tuesday, September 17, 1968, 9:00 A.M., Council Chamber.

CIVIL SERVICE: Tuesday, September 17, 1968, 1:55 P.M. Council Chamber.

LEGISLATION: Tuesday, September 17, 1968, 2:00 P.M., Council Chamber.

LEGISLATION: Rezone Only — Wednesday, September 18, 1968, 10:00 A.M., Council Chamber.

No. 222.

By MR. BLACK:

In Memoriam.

The members of the Common Council have learned with deep regret and profound sorrow of the death of Mrs. Ercelle H. Moore, a prominent churchwoman and civic leader.

Mrs. Moore was active in many facets of community life and was a past officer and long-time member of the Eastern Star, Daughters of Isis, IBPOE, St. Luke's A.M.E.Z. Church, the Durham Memorial

The cost of the Appeal at this point would involve the printing of the record consisting of the papers submitted to the Court and a brief. The estimated cost of such printing based on conversations with the Batavia Times would run approximately $500.00.

In addition, there would be attorney fees based on an hourly basis. Because of the work previously done in the matter, the hours required for preparation of the Appeal and argument would not be extensive.

For the foregoing reasons, I believe that prosecution of an appeal in this matter would be successful.

Very truly yours,

FRANK R. BAYGER.

Received and filed.

No. 3.

By: MESSRS. BUYERS, ELFVIN, LEWANDOWSKI, LYMAN, SLOMINSKI, and WHALEN:

Re: Appeal — Amendment to City Building Code.

BE IT RESOLVED, that the Common Council of the City of Buffalo retain, authorize and empower FRANK BAYGER, Esq., to prosecute an appeal on behalf of the City of Buffalo, the Common Council of the City of Buffalo and Charles A. Stutzman, Director of Buildings to the Appellate Division, Fourth Department, and/or to the Court of Appeals of the State of New York, from an Order and/or Judgment of the Supreme Court of the State of New York in and for the County of Erie, which Order was filed in the Office of the Clerk of the County of Erie on the 9th day of September, 1968, in an action or proceeding entitled:

SUPREME COURT
STATE OF NEW YORK
COUNTY OF ERIE

THE BOARD OF EDUCATION
OF THE CITY OF BUFFALO,
NEW YORK,
Petitioner and Plaintiff

— vs —

THE CITY OF BUFFALO, NEW YORK
THE COMMON COUNCIL OF THE
CITY OF BUFFALO, NEW YORK
and CHARLES A. STUTZMAN, as
Director of Buildings of the City of
Buffalo, New York
Respondents and Defendants

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and further authorizing and appropriating the expenditure of any and all funds necessary to prosecute said Appeal, and charging same to the Judgment and Claims Account of the Corporation Counsel's Office.

WILLIAM BUYERS

JOHN T. ELFVIN

RAYMOND LEWANDOWSKI

WILLIAM F. LYMAN

ALFREDA W. SLOMINSKI

GERALD J. WHALEN

Mr. Elfvin moved the adoption of the foregoing resolution; seconded by Mr. Buyers.

Adopted.

Ayes—Buyers, Elfvin, Franczyk, Lewandowski, Lyman, Perla, Slominski, Whalen —8.

Noes—Black, Gorski, Johnson, Makowski, Mitchell, Morrisey, Regan—7.

No. 4.

Adjournment.

On motion of Mr. Makowski, seconded by Mr. Whalen, the Council adjourned at 8:35 p.m.

DANIEL L. DROPIK,
City Clerk.

Meeting reported by John J. Hogan, Council and Committee Reporter.

Plaintiffs' Exhibit 182.

The cost of the Appeal at this point would involve the printing of the record consisting of the papers submitted to the Court and a brief. The estimated cost of such printing based on conversations with the Batavia Times would run approximately $500.00.

In addition, there would be attorney fees based on an hourly basis. Because of the work previously done in the matter, the hours required for preparation of the Appeal and argument would not be extensive.

For the foregoing reasons, I believe that prosecution of an appeal in this matter would be successful.

Very truly yours,

FRANK R. BAYGER.

Received and filed.

No. 3.

By: MESSRS. BUYERS, ELFVIN, LEWANDOWSKI, LYMAN, SLOMINSKI, and WHALEN:

Re: Appeal — Amendment to City Building Code.

BE IT RESOLVED, that the Common Council of the City of Buffalo retain, authorize and empower FRANK BAYGER, Esq., to prosecute an appeal on behalf of the City of Buffalo, the Common Council of the City of Buffalo and Charles A. Stutzman, Director of Buildings to the Appellate Division, Fourth Department, and/or to the Court of Appeals of the State of New York, from an Order and/or Judgment of the Supreme Court of the State of New York in and for the County of Erie, which Order was filed in the Office of the Clerk of the County of Erie on the 9th day of September, 1968, in an action or proceeding entitled:

SUPREME COURT
STATE OF NEW YORK
COUNTY OF ERIE

THE BOARD OF EDUCATION OF THE CITY OF BUFFALO, NEW YORK,

. Petitioner and Plaintiff

— vs —

THE CITY OF BUFFALO, NEW YORK
THE COMMON COUNCIL OF THE CITY OF BUFFALO, NEW YORK
and CHARLES A. STUTZMAN, as Director of Buildings of the City of Buffalo, New York

Respondents and Defendants

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and further authorizing and appropriating the expenditure of any and all funds necessary to prosecute said Appeal, and charging same to the Judgment and Claims Account of the Corporation Counsel's Office.

WILLIAM BUYERS

JOHN T. ELFVIN

RAYMOND LEWANDOWSKI

WILLIAM F. LYMAN

ALFREDA W. SLOMINSKI

GERALD J. WHALEN

Mr. Elfvin moved the adoption of the foregoing resolution; seconded by Mr. Buyers.

Adopted.

Ayes—Buyers, Elfvin, Franczyk, Lewandowski, Lyman, Perla, Slominski, Whalen —8.

Noes—Black, Gorski, Johnson, Makowski, Mitchell, Morrisey, Regan—7.

No. 4.

Adjournment.

On motion of Mr. Makowski, seconded by Mr. Whalen, the Council adjourned at 8:35 p.m.

DANIEL L. DROPIK,
City Clerk.

Meeting reported by John J. Hogan, Council and Committee Reporter.

Plaintiffs' Exhibit 183.

50—DIVISION OF ENGINEERING

41—Repair and Construction of Streets

Other Services

82—Repairs and Alterations ...$3,200.00

The amount of increased appropriation will be met from Unappropriated Surplus —Regular Departments, not otherwise appropriated for any other purpose.

DATED: Buffalo, New York, September 19, 1968.

Received and filed.

No. 27.

Buffalo, September 23, 1968.

Re: Req. Opinions Re: Bond Resolution Middle Schools.

(C.C.P., Item 214, September 10, 1968.)

Your Honorable Body referred the above item to me for my written opinion as to the legality of items contained therein.

The 1968-69 Capital Improvements Budget as approved by your Honorable Body for the Board of Education contains an item of $1,050,000.00 for West Hertel Middle School.

The bond resolution in the amount of $997,000.00 that was laid on the table on August 6, 1968, and carried the designation "— for the construction of a Class A (fireproof) Public Junior High School Building (Hertel Middle School)," covers the budget item that was approved by your Honorable Body. The $997,000 represents the gross amount of $1,050,000 less a down payment of $53,000.

On March 22, 1967, in response to my inquiry, our bond counsel submitted an opinion, a copy of which is attached hereto, which stated in part, "In our opinion, the issuance by the City of obligations for the construction of a Junior high school building does not preclude it thereafter for all time from changing the grades taught in such school or re-designating it from a Junior high school building to a middle school building. The notes were issued for a valid purpose, and such re-designation of the school and the application of the proceeds from such notes to the cost of the reclassified school does not, in our opinion, affect the validity of such notes or of the bond resolution pursuant to which they were issued nor does it violate any obligation of the City to the holders of such notes.

In addition, we understand that it is anticipated that the proposed capital budget of the City will provide for additional funds for the Riverside Junior High School, as re-designated as a middle school, and that such additional capital requirements for such school may be financed by an additional bond authorization. Neither the proposed inclusions in the capital budget of an additional appropriation for such school nor the possibility of the subsequent issuance of bonds to finance such appropriation has any effect on our above opinion."

On Friday, September 20, 1968, I discussed your current inquiry with our bond counsel and they said that their opinion of March 22, 1967, which is hereinbefore quoted in part, is still valid and is applicable to the current situation.

I wish to call to the attention of your Honorable Body that the matter speculated upon in the last paragraph of the bond counsel's letter is the matter that lays on the table and is identified as — "August 6, 1968, No. 3, Construction Junior High School Building (Hertel Middle School), $997,000.

In consderation of the foregoing, plus the fact that the City's Corporation Counsel, Anthony Manguso, has advised me that the Board of Education has the right to re-designate a school from one type to another, I hereby respond to the Resolve in Item 214, C.C.P., September 10, 1968, as follows:

In my opinion the whole procedure is legal.

Very truly yours,

GEORGE D. O'CONNELL,
Comptroller.

Received and filed.

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Plaintiffs' Exhibit 184.

Mr. Makowski moved the approval of the foregoing resolution; seconded by Mr. Black.

Mr. Elfvin called for a separation of the question as per Rule 18 of the Rules of Order of the Common Council.

Mr. Makowski moved the approval of the first Resolve of the original resolution; seconded by Mr. Johnson.

Adopted.

Ayes—Black, Buyers, Franczyk, Gorski, Johnson, Lyman, Makowski, Mitchell, Perla, Whalen—10.

Noes—Elfvin, Lewandowski, Morrisey, Regan, Slominski—5.

Mr. Makowski then moved the approval of the second resolve of the original resolution; seconded by Mr. Mitchell.

Adopted.

Ayes—Black, Buyers, Franczyk, Gorski, Johnson, Lewandowski, Lyman, Makowski, Mitchell, Perla, Regan, Slominski, Whalen—13.

Noes—Elfvin, Morrisey—2.

No. 175.

By Messrs. FRANCZYK and MAKOWSKI:

Re: Licensing of Realty Appraisers.

WHEREAS, There is no set norm or standard for determining the qualifications and abilities of real property appraisers retained by public agencies as well as by private individuals; and,

WHEREAS, Specific and clear cut qualifications required of appraisers can best be attained through uniform examination and licensing;

BE IT THEREFORE

RESOLVED, That this Common Council memorialize the state legislature to enact legislation which would require the examination and licensing of real property appraisers in the State of New York.

Referred to the Committee on Legislation.

No. 176.

By Mr. JOHNSON:

Re: West Hertel Middle School Bond Issue.

WHEREAS, The Common Council of the City of Buffalo, by a vote of 13 to 2, on May 14, 1968 approved the Capital Improvements Budget for fiscal year 1968-1969; and

WHEREAS, Said budget included an appropriation for $1,050,000.00, for the completion of the West Hertel Middle School and $400,000.00 for planning for the construction of public middle schools; and

WHEREAS, The approval of said budget was a declaration of intent to approve a bond issue for these and the other items of the Capital Improvement Budget; and

WHEREAS, This is established by the fact that this Common Council has approved bond issues for all other Board of Education items and other items contained in the Capital Improvement Budget for fiscal year 1968-1969; and

WHEREAS, The local finance law establishing the authority of the Common Council to issue bonds to finance the Capital Improvement Budget was not intended to give the Common Council the authority to decide what types of schools to be built in the city, such responsibility being that of the Board of Education as established by State law; and

WHEREAS, There are no financial obstacles to prevent the passage of bond issues with respect to the West Hertel Middle School and planning funds for other Middle Schools; and

WHEREAS, The singling out of these items to be denied bond issues is contrary to the intent of this Common Council in voting approval of these items in the Capital Improvement Budget of fiscal year 1968-1969 on May 18, 1968 and is an arbitrary and capricious act to prevent further desegregation of Buffalo's School system, contrary to the National and State policy and the State Mandate to the Board of Education; and

WHEREAS, Such act of denial is an abuse of the intent of the State Local Finance Law in granting bond issuance powers to this Common Council;

NOW, THEREFORE, BE IT

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Plaintiffs' Exhibit 184.

RESOLVED, That this Common Council act in the best interests of the citizens of Buffalo, and authorize bond issues regarding these items.

Mr. Makowski moved the approval of the foregoing resolution; seconded by Mr. Johnson.

Mr. Mitchell moved as an amendment to lay on the table; seconded by Mr. Black.

Adopted.

Ayes — Black, Buyers, Elfvin, Franczyk, Gorski, Johnson, Lewandowski, Lyman, Makowski, Mitchell, Morrisey, Perla, Regan, Whalen—14.

Noes—Slominski—1.

No. 177.

By Messrs. JOHNSON and MAKOWSKI:

Re: Bus Service to and From Bennett Beach.

WHEREAS, the City of Buffalo now owns and operates Bennett Beach located in the Township of Evans, New York; and

WHEREAS, There is a need to provide greater use of this public facility by City of Buffalo residents; and

WHEREAS, many residents of the City are not financially able and lack autos or bus service to and from this beach;

BE IT THEREFORE

RESOLVED, that this Common Council direct the Commissioner of Parks explore the feasibility of providing bus service to and from Bennett Beach during the next bathing season, such bus service to be made available to those residents of Buffalo who are financially handicapped and lacking private transportation; and

BE IT FURTHER

RESOLVED, that this Common Council direct the Mayor's aide on Federal and State-aid programs to explore the availability of State or Federal assistance in implementing the above recommended program; and

BE IT FURTHER

RESOLVED, that this Common Council memoralize the County Legislature to explore the feasibility of adopting the above program in the Erie County Parks System.

Adopted.

Ayes—Black, Buyers, Franczyk, Gorski, Johnson, Lewandowski, Makowski, Mitchell, Morrisey, Perla, Regan—11.

Noes—Elfvin, Lyman, Slominski, Whalen—4.

No. 178.

By Mr. LEWANDOWSKI:

Re: Parking and Traffic Problems At Bailey and Doat.

WHEREAS, there is a serious parking and traffic problem at the busy intersection of Bailey Avenue and Doat Street; and

WHEREAS, the above problem becomes even more serious because of its impact on the fire house located at the southeast corner of Bailey and Doat (Hook and Ladder No. 14, Engine No. 31 and Rescue Squad No. 4); and

WHEREAS, movable equipment used by this firehouse is often improperly and unsafely parked because of the lack of adequate space for this equipment and other vehicles;

BE IT THEREFORE

RESOLVED, that this Common Council request the Comptroller to fully examine the availability of real property in the immediate area of Bailey and Doat, such property to be used to alleviate the need for adequate and safe parking of vehicles used by the firemen assigned to the firehouse at the southeast corner of Bailey and Doat; and

BE IT FURTHER

RESOLVED, that the Comptroller be urged to give specific attention to the availability and possible cost of real property located at 222 Doat Street for possible acquisition and use by the fire house housing Hook and Ladder No. 14, Engine No. 13 and Rescue Squad No. 4.

Adopted.

Plaintiffs' Exhibit 185.

Deeds for the term ending December 31, ..., conditional upon the persons so appointed certifying under oath to their qualifications and filing same with the City Clerk: Thomas E. Butler, Carl P. Eberhard, Nancy Shaw and Joseph J. Wozow, Bernice A. Wright.

Total: 5.

Adopted.

UNFINISHED BUSINESS.

No. 250.

Re: West Hertel Middle School Bond Issue.

Mr. Makowski moved that Resolution No. 176, C.C.P., September 24, 1968, Re: West Hertel middle school bond issue, be taken from the table.

Carried.

Mr. Makowski moved that the Resolution be and hereby is received and filed.

Adopted.

No. 251.

Bond Resolution Authorizing The Issuance of $997,000.00 School (Serial) 1968 Bonds of The City of Buffalo, N. Y., For The Construction Of A Class "A" (Fireproof) Public Junior High School Building (Hertel Middle School) For The Board of Education of The City of Buffalo.

(Res. 3, C.C.P., August 6, 1968.)

Mr. Makowski moved that Resolution No. 219, C.C.P., September 10, 1968; bond resolution authorizing the issuance of $997,000.00 school (serial) 1968 bonds of the City of Buffalo, N. Y., for the construction of a class "A" (fireproof) public junior high school building (Hertel middle school) for the board of education of the City of Buffalo (Res. 3, C.C.P., August 6, 1968), be taken from the table.

Carried.

Ayes—Black, Buyers, Elfvin, Franczyk, Gorski, Johnson, Makowski, Mitchell, Morrisey, Perla, Regan Slominski, Whalen—13.

Noes—Lewandowski—1.

Mr. Makowski moved the passage of the resolution (seconded by Mr. Mitchell)

Passed.

Ayes—Black, Elfvin, Franczyk, Gorski, Johnson, Makowski, Mitchell, Morrisey, Perla, Regan—10.

Noes—Buyers, Lewandowski, Slominski, Whalen—4.

No. 252.

Bond Resolution Authorizing The Issuance of $1,900,000.00 General Improvement Water Supply (Serial) 1968 Bonds of The City of Buffalo, N. Y.

Mr. Makowski moved that Resolution No. 186, C.C.P., September 24, 1968; bond resolution authorizing the issuance of $1,900,000.00 general improvement water supply (serial) 1968 bonds of the City of Buffalo, N. Y., be taken from the table.

Carried.

Mr. Makowski moved the passage of the resolution.

Passed

Ayes—14. Noes—None.

#176

No. 157.

By Mr. JOHNSON:

Re: Objections To Assessment Roll No. 13139 — Demolition Of Building At 220 Emslie Street.

(Item No. 156, C.C.P., September 10, 1968.)

(Item No. 157, C.C.P., September 10, 1968.)

Mr. Johnson moved that Item No. 156, C.C.P., September 10, 1968 and Item No. 157, C.C.P., September 10, 1968, Hearing — Objections to Assessment Roll No. 13139 — Demolition of Building at 220 Emslie Street, be taken from the table.

Carried.

Mr. Johnson moved that:

WHEREAS, objections having been filed to the confirmation of Assessment Roll No. 13139 for the demolition of the building at 220 Emslie Street and upon due notice a hearing having been duly set and had on the objections before the Common Council;

NOW BE IT

RESOLVED, that Assessment Roll No. 13139 for the demolition of the building at 220 Emslie Street, Buffalo, New York, be and the same hereby is confirmed.

Passed.

Ayes—13. Noes—None.

No. 158.

By Messrs. JOHNSON, MAKOWSKI, ELFVIN, MITCHELL, REGAN, GORSKI, FRANCZYK, and BLACK:

Re: Open Housing.

WHEREAS, the Fair Housing Law (Title VIII of the Civil Rights Act of 1968) bans discrimination based on race, religion, color or national origin in the sale or rental of housing covered by law; and,

WHEREAS, the purpose of the Fair Housing Law is to provide every person in the United States an equal opportunity to choose housing suited to his needs and financial ability, wherever he would like to live; and,

WHEREAS, interference with an individual's rights under this law is illegal. This means that no one may threaten or prevent another person from buying, renting or selling housing or from making a complaint of discrimination. If violence is threatened or used, criminal prosecution may result; and,

WHEREAS, in addition to the new Fair Housing Title, Federal Law also prohibits any racial discrimination which interferes with the right to sell, rent, lease, buy, inherit, or convey any kind of housing, regardless of whether that housing is covered or exempt under Title VIII. This right was made clear in the Supreme Court decision of Jones V. Mayer (June 1968) and is enforceable by private action in court;

NOW, THEREFORE, BE IT RESOLVED, That the Common Council of the City of Buffalo, does herewith affirm the Fair Housing Law (Title VIII of the Civil Rights Act of 1968); and calls upon the residents of this City to cooperatively seek the full implementation of the broad moral and social purposes contained there-in;

FURTHER-MORE, BE IT RESOLVED, That this honorable body endorses, and encourages, full compliance by all residents with the Federal Law relative to all housing, covered or exempt as proclaimed and clearly set forth by the Supreme Court decision of Jones V. Mayer (June 1968).

Laid on the Table.

No. 159.

By Mr. LEWANDOWSKI:

Re: Degree of Responsibility For Passenger Protection.

WHEREAS, our City's franchised bus transportation company has recently required that passengers must have the exact fare to use the bus transportation system; and

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Plaintiffs' Exhibit 187.

RESOLUTIONS.

No. 129.

By MR. BUYERS:

Keep School Children From Strikes.

BE IT RESOLVED, that the Board of Education be requested to refrain from using unknowing and innocent school children as strike breakers.

Referred to Board of Education.

Ayes—Black, Buyers, Elfvin, Franczyk, Gorski, Johnson, Lewandowski, Lyman, Makowski, Mitchell, Morrisey, Perla, Slominski—13.

Noes—Regan—1.

No. 130.

By MR. BUYERS:

Order Emergency Demolition — Corner Niagara and Ontario Streets.

WHEREAS, demolition has been underway at the corner of Niagara and Ontario Sts. for many months, and

WHEREAS, said demolition has become a nuisance and a safety hazard to pedestrians, vehicles and children,

Now therefore, be it resolved, that the

NOW THEREFORE, BE IT RESOLVED, that the Director of Buildings order the emergency demolition of said building and charge the cost to the owner of the premises.

Passed.

Ayes—14. Noes—None.

No. 131

By MR. LEWANDOWSKI:

Re: Fair Housing Policy.

WHEREAS, discrimination is morally wrong and constitutionally illegal; and

WHEREAS, our federal and state governments by legislation and judicial decisions, have pre-empted this area of constitutional civil rights; and

WHEREAS, for the past year, there has been great activity generated in the City of Buffalo, to prevail upon this Common Council to adopt local housing laws, with enforcement features that go beyond the scope of legislative policies and judicial decisions of our federal and state governments; which could have resulted in the deprivation of civil rights of our residents, to be free from harassment and star chamber proceedings; and

WHEREAS, this Common Council has not declared its public policy in the area of housing; now therefore be it

RESOLVED, that this Common Council officially recognize the United States Supreme Court decision in the Jones vs. Mayer Co. case, handed down on June 17, 1968; and be it further

RESOLVED, that this Common Council adopt the federal policy on housing as stated in Title VIII of the Civil Rights Act as its official public policy, which was passed by the United States Congress on April 11, 1968.

Mr. Elfvin called for a separation of the question as per Rule 18 of the Rules of Order of the Common Council.

Carried.

Mr. Makowski moved the approval of the first Resolve of the Resolution (Seconded by Mr. Perla)

Adopted.

Ayes—14 Noes—None.

Mr. Makowski moved the approval of the second resolve of the resolution (Seconded by Mr. Mitchell)

Adopted.

Ayes—14. Noes—None.

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PLAINTIFF'S EXHIBIT 189
NO. CV-72-325

J. Doney, Margaret M. Lynch, Leonan, Marian Reinhardt, Mar- Vargoner, Margaret C. Penders, Skibinski, Margaret Genco, Fern la, John J. Cleary, Sal J. Ar-

Harrigan.

M. Nelson, Joseph J. Roetter, f. Sciolino, Jessie L. Dray, Ger- Gorman, Mary Alice Hardy, Holley, Sara B. LaTona, Loretta ki, Ada Roetter, Henrietta P. Charlotte D. Snow.

03.

No. 141.

GAN:

ments Commissioner of Deeds.

e following named persons are ppointed as Commissioners of the term ending December 31. itional upon the persons so ap- ertifying under oath to their ons and filing same with the k:

rmstrong, Phiolmena V. Bauda, F. Brink, Christy A. Buscaglia, W. Balzer, Dominic C. Bona, obro, Joseph T. Bova, Benjamin ori, Frank X. Bennett, Jr., Eve- ker, Laura Blanchard, Frank A.

. Contrino, Dolores A. Curto, Dole, Lowell Curvin, Alfred T. Edward Capitano,

J. Dickey, Joseph S. Dolce, DiMarco, Marion E. Dean, Hec- nenos, Solomon Daniels, Darryl ker, Angela DiFranco, Ida J.

enger, Eben T. Farnham, Dom- iano, Lillian E. Fromm, Nancy Carol B. Falgiano,

Insberg, Dominick J. Gambino, Gethoefer, Eileen Gannon, Ed- Grzechowiak, Joseph Greco, Har- witz, Francis J. Henkel, Dorothea Mary H. Hoff, Edna S. Horrocks, H. Holmberg, John W. Hester, Wm. J. Hamilton, Harry C. Hoffert, Robert A. Hoffman,

Samuel W. Iacuzzo, Chester F. Kinecki, Joseph A. Klawon, Richard J. Kaminski, Edna Kiefer, Jan Kulczyk, Elsie W. Kraengel,

Henry Jadd, James Lombardo, Theresa C. Lattuca, Ralph A. Lehr, Nathan Levy, Muriel Lennich, Clarence L. Lanich, Sylvia Lane, Eunice G. Maher, Irene P. Markovich, Vera Jo Mote, Mary J. Matala, Rev. Charles L. Meister, Mary C. Morra, Rose A. Main, Stanley Melski, James J. McCabe, Rocco Missica, Frances S. Murphy, James J. Makowski, Peter J. Mancuso, Henry J. Mellenger, Frank Mingarello, Gertrude M. Miller, Richard E. Mazuca, Edward J. Mack, Helen Miller,

Velma C. Neu, Adolph M. Newman, Alberta Nolte, Joseph Olszewski, Frank Pysynski, David G. Pollack, Allan E. Pohl, Charles R. Pomroy, Theodore J. Pietrzak, Gerhard G. Panke, Clara Piszkin,

Maxwell A. Ruttenstein, Angeline Radomski, Charles B. Roberts, Elizabeth M. Rabe, Gladys Rau, Samuel P. Redino, Theola B. Rowell, B. Murty Reen, George T. Reeser, Carl P. Rizzo, Howard A. Seyse, Marguerite Seyse, Rebecca Smolev, Jean A. Smith, Frances R. Schaefer, Christopher P. Scaltsas, Leona Szczepanski, Alfred B. Silverman, G. E. Spitzmiller, Katherine M. Strasmer Graves, Edward M. Sheehan, Bert Simon, Bert Simon, Jr., Jerry Simon, Mary Stracick, Gordon W. Sacks, Doris H. Shiverly, Mary Ann Siagor, Eleanor Schohn, Nancy Mae Schmidt,

Linda G. Thomas, Thomas L. Terranova, Joanne M. Walsh, Richard Woodard, Margaret Wertman, Bernice Wojtas, Jack Williamson, Frank A. Weigel, Gloria Warren, Virginia D. Young, Helen M. Young, Marion L. Zimmerman, Marcia A. Ziomek.

Total: 138.

Adopted.

UNFINISHED BUSINESS.

No. 142.

Open Housing.

Mr. Makowski moved that Resolution No. 186, C.C.P., November 19, 1968: open housing, be taken from the table.

Carried.

Mr. Makowski moved the approval of the above Item. Seconded by Mr. Mitchell.

Adopted.

Ayes—Black, Buyers, Elfvin, Franczyk, Gorski, Johnson, Lewandowski, Makowski, Mitchell, Morrisey, Perla, Regan—12.

Noes—Lyman, Slominski—2.

No. 143.

Re: Project Office Lease — Hamlin Park Concentrated Code Enforcement Project.

(Item No. 78, C.C.P., Nov. 6, 1968.)

Mr. Makowski moved that Resolution No. 133, C.C.P., November 19, 1968; Re: project office lease — Hamlin Park concentrated code enforcement project (Item No. 78, C.C.P., Nov. 6, 1968) be taken from the table.

Carried.

Mr. Makowski moved the approval of the above Item. Seconded by Mr. Mitchell.

Passed.

Ayes—Black, Elfvin, Franczyk, Gorski, Johnson, Lewandowski, Lyman, Makowski, Mitchell, Morrisey, Perla, Regan—12.

Noes—Buyers, Slominski—2.

No. 144.

Re: Enforcement of Constitutional Rights in the Rental of Units in Owner Occupied Two Family Houses.

Mr. Makowski moved that Resolution No. 223, C.C.P., October 8, 1968; Re: enforcement of constitutional rights in the rental of units in owner occupied two family houses, be taken from the table.

Carried.

Mr. Makowski moved the above Resolution be and hereby is Received and Filed. Seconded by Mr. Mitchell.

Adopted.

Ayes—14. Noes—None.

No. 145.

Bond Resolution Authorizing the Issuance of $380,000.00 School (Serial) 1968 Bonds of the City of Buffalo, N. Y., For the Construction of Class "A" (Fireproof) Public Middle School Buildings For the Board of Education of the City of Buffalo.

Mr. Makowski moved that Resolution No. 2, C.C.P., August 6, 1968; bond resolution authorizing the issuance of $380,000.00 school (serial) 1968 bonds of the City of Buffalo, N. Y., for the construction of Class "A" (fireproof) Public Middle School buildings for the Board of Education of the City of Buffalo, be taken from the table.

Carried.

Ayes—Black, Buyers, Elfvin, Franczyk, Gorski, Johnson, Lewandowski, Lyman, Makowski, Mitchell, Morrisey, Perla, Regan—13.

Noes—Slominski—1.

Mr. Makowski moved the approval of the Resolution. Seconded by Mr. Mitchell.

Lost.

Ayes—Black, Buyers, Gorski, Johnson, Makowski, Mitchell, Morrisey, Regan—8.

Noes—Elfvin, Franczyk, Lewandowski, Lyman, Perla, Slominski—6.

No. 146.

Announcement of Committee Meetings:

FINANCE: Tuesday, December 10, 1968 9:00 A.M., Council Chambers.

CIVIL SERVICE: Tuesday, December 10, 1968, 1:55 P.M., Council Chambers.

LEGISLATION: Tuesday, December 10, 1968, 2:00 P.M., Council Chambers.

LEGISLATION: Rezone Only—Wednesday, December 11, 1968, 10:00 A.M., Council Chambers.

No. 147.

Adjournment.

On motion of Mr. Makowski, seconded by Mr. Mitchell, the Council adjourned at 6:40 P.M.

DANIEL L. DROPIK,

Meeting reported by John J. Hogan, Council and Committee Reporter.

Plaintiffs' Exhibit 189.
1621
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Plaintiffs' Exhibit 192.

No. 158.

Re: Niagara Frontier State Park Commission Letter, Possible Lack of Assistance in Park Grant Program.

(No. 13, C.C.P., January 25, 1972.)

(No. 58, C.C.P., February 22, 1972.)

That the following item be and the same hereby is received and filed:

No. 58, C.C.P., February 22, 1972.

Re: Niagara Frontier State Park Commission Letter, Possible Lack of Assistance in Park Grant Program.

(No. 13, C.C.P., January 25, 1972.)

Recommended by the Committee on Legislation.

GUS FRANCZYK,
Chairman.

Adopted.

No. [illegible].

Re: Reports on the West Side Arterial.

(Item No. 165, C.C.P., February 22, 1972.)

RESOLVED, that this Common Council direct the New York State Department of Transportation to file an up to date report on the West Side Arterial and that the report is to contain maps of the proposed route and projected construction date and all other necessary information.

Recommended by the Committee on Legislation.

GUS FRANCZYK,
Chairman.

Adopted.

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REPORT OF SPECIAL COMMITTEE: PUBLIC EDUCATION

No. 160.

Re: Quality Education.

(No. 147, C.C.P., February 8, 1972.)

That the following item be and the same hereby is received and filed:

No. 147, C.C.P., February 8, 1972.

Re: Quality Education

Recommended by the Special Committee on Public Education.

HORACE C. JOHNSON,
Chairman.

Adopted.

Mr. Johnson moved the adoption of the Committee report to receive and file.

Mr. Arthur amended to approve the item contained in the committee report; seconded by Mr. Mitchell.

Lost.

Ayes—Arthur, Johnson, Mitchell—3.

Noes—Dauria, Franczyk, Gorski, Higgins, Hoyt, Lewandowski, Masiello, Okonlewski, Perla, Slominski, Volkert, Whalen—12.

The committee report recommending receiving and filing was then adopted.

Ayes—Dauria, Franczyk, Gorski, Higgins, Hoyt, Lewandowski, Masiello, Okonlewski, Perla, Slominski, Volkert, Whalen—12.

Noes—Arthur, Johnson, Mitchell—3.

No. 161.

Re: Public School Integration.

(Item No. 158, C.C.P., February 8, 1972.)

WHEREAS, the Buffalo Board of Education has been ordered, by New York State

Education Commissioner Ewald B. Nyquist, to meet an April 1st deadline to submit plans for "substantial" integration of Buffalo public schools; and

WHEREAS, much controversy has surrounded the present voluntary busing program to achieve racial balance; and

WHEREAS, Dr. Nyquist has refused the Board of Education's request for a public meeting, during his announced visit to this city, denying public response to his order;

NOW, THEREFORE, BE IT

RESOLVED, that this Common Council, the closest elected body to the citizens of Buffalo, memorialize the members of the New York State Legislature and the United States Congressmen and Senators, from the Buffalo area, to support legislation to prevent the State and Federal Government from dictating municipal school board policy regarding integration; and

BE IT FURTHER RESOLVED, that the right of students to attend the schools of their choice will not be denied by the State of New York or its Commissioner of Education without a complete study and a public hearing; and

BE IT FURTHER RESOLVED, that the City Clerk forward a certified copy of this resolution to the Governor, Clerk of the State Senate and Assembly, United States Congressmen for the Western District of New York, United States Senators for the State of New York, and the State Legislators elected by the voters residing in whole or in part in the City of Buffalo.

Recommended by the Special Committee on Public Education.

HORACE C. JOHNSON,
Chairman.

Adopted.

Ayes—Dauria, Franczyk, Gorski, Higgins, Hoyt, Lewandowski, Masiello, Okoniewski, Perla, Slominski, Volkert, Whalen—12.

Noes—Arthur, Johnson, Mitchell—3.

No. 162.

Re: Community Opposition to Cross Busing for Racial Quotas.

(Item No. 168, C.C.P., February 8, 1972.)

WHEREAS, the State Commissioner of Education by letter to our Board of Education, ordered our School Board to submit a new plan by April 1, 1972 to end racial imbalance in our Public Schools; and

WHEREAS, Commissioner Nyquist's letter is in reality an order to initiate massive cross busing of our school children on a local, voluntary basis; and

WHEREAS, this order implies a coercive classification and separation of school children by race, and it violates the human rights of our children; and

WHEREAS, this kind of compulsory cross busing is contrary to the 1954 U. S. Supreme Court decision, Brown v. the Board of Education of Topeka, Kansas; which ruled that any law that denies admission to a neighborhood school because of race is discriminatory and in violation of the equal protection clause of the 14th Amendment; and

WHEREAS, in 1954 the State of New York was not a party defendant in the U. S. Supreme Court action, because NYS had many years ago prohibited racial discrimination in our public schools; and

WHEREAS, the present policies of the State Department of Education go back to 1962, when Commissioner Allen found that his personal attitudes and philosophy regarding racial balance schemes were meeting with a strong opposition in the various communities of the State, handpicked a three member advisory committee to study human relations and community tensions, and whose "personal opinions" have since become the State Education Department's policy, which has been foisted on the People of our State; and

WHEREAS, this policy is the cause of much distress and controversy in our community and throughout the State; and

WHEREAS, the State Commissioner of Education is functioning outside the scope of his authority and without regard to the limitations of his office, by inventing arbitrary percentages of black and white enrollments, which as he proclaims, are necessary to provide for equal educational opportunity; and

WHEREAS, in 1954 U. S. Supreme Court Chief Justice Warren stated in Boling v. Sharpe, "that any educational policy using racial classifications must be scrutinized with particular care, since they are contrary to our traditions and hence constitutionally suspect"; and

WHEREAS, any racial balance plan which denies admission to neighborhood schools because of race is as discrimina-

tory as the Kansas County Law, which was ruled unconstitutional in the Brown case; and

WHEREAS, the vast majority of citizens and taxpayers of the City of Buffalo are against the busing of children to achieve racial quotas in our public schools; and

WHEREAS, massive cross busing would be an impossible burden on the strained financial resources of our City; now therefore be it

RESOLVED, that this Common Council request the State Commissioner of Education to review the racial imbalance policy as presently advocated by his Office; and to reconsider the legal implications of the 1954 U. S. Supreme Court decisions in which the right of every child was guaranteed to attend the public school in his neighborhood; and be it further

RESOLVED, that this Common Council direct our City Clerk to send a certified copy of this Resolution to the Governor, Clerk of the State Senate and Assembly, and to the State Commissioner of Education.

Recommended by the Special Committee on Public Education.

HORACE C. JOHNSON,
Chairman.

Mr. Arthur moved to receive and file; seconded by Mr. Mitchell.

Lost.

Ayes—Arthur, Hoyt, Johnson, Mitchell—4.

Noes—Daurla, Franczyk, Gorski, Higgins, Lewandowski, Masiello, Okoniewski, Perla, Slominski, Volkert, Whalen—11.

The committee report was then adopted at suggestion of Mr. Mitchell by reversing the preceding roll call.

Adopted.

Ayes—Dauria, Franczyk, Gorski, Higgins, Lewandowski, Masiello, Okoniewski, Perla, Slominski, Volkert, Whalen—11.

Noes—Arthur, Hoyt, Johnson, Mitchell—4.

No. 163.

Re: Forced Bussing.

(Item No. 169, C.C.P., February 8, 1972).

WHEREAS, forced bussing would create a cruel and unusual hardship on students and parents alike; and

WHEREAS, forced bussing is one more step by the State to deprive all parents of their custody and supervision of their own children; and

WHEREAS, forced bussing would be financially devastating to both parent and city;

NOW, THEREFORE, BE IT

RESOLVED, that this Common Council publicly oppose any attempt by the State of New York, or the Board of Regents, or the State Commissioner of Education, to enact rules, regulations or adopt a policy which would involve the cross-bussing of public school children, for either integration purposes or quality education; and

BE IT FURTHER RESOLVED, that this Common Council determine, as a matter of policy, not to grant, approve or provide funds involving the cross-bussing of children, either for integration or quality education purposes.

RECOMMENDED BY THE SPECIAL COMMITTEE ON PUBLIC EDUCATION.

HORACE C. JOHNSON,
Chairman.

Recommitted to the Special Committee on Public Education.

No. 164.

Re: Mass Busing.

(Item No. 188, C.C.P., February 8, 1972).

WHEREAS, the residents of the City of Buffalo are already in a state of conflict over the race balance busing policies presently in effect; and

WHEREAS, over 3200 pupils are bused for race balance purposes each day, at an annual expense to the taxpayers of approximately $1,000,000; and

WHEREAS, it is felt the present busing policies have adversely affected the quality

of education in the Buffalo Public Schools; and

WHEREAS, the Commissioner of Education's notification to the Board of Education to submit a new plan to end racial unbalance in Buffalo public schools by April 1, will cost millions of dollars, which funds are not presently available in the New York State Budget, nor in the Buffalo Board of Education Budget; and

WHEREAS, these millions of dollars could be better utilized in developing quality education for every child presently attending the Buffalo Public Schools; and

WHEREAS, the majority of parents highly object to busing for purposes of racial balance, as being morally objectionable and unworkable; and

WHEREAS, the proposed mass cross-busing would disrupt the family and neighborhood stability; and

WHEREAS, this mass cross-busing would cause an exodus of families from the City of Buffalo, just as the present busing policy has caused a migration from the City; and

WHEREAS, the present racial balance busing policies have caused innumerable racial disturbances and disruptions in many Buffalo Public Schools; and

WHEREAS, any future mass cross-busing will cause further polarization of the races and additional racial disturbances and disruptions in the public schools; and

WHEREAS, the Board of Education and the administrative staff would be required to devote many man hours to the development and administration of a massive cross-busing plan—time that could be better spent developing programs for the improvement of reading, writing and arithmetic skills; and

WHEREAS, many of our public schools are in need of rehabilitation and repairs;

NOW, THEREFORE, BE IT RESOLVED:

That the Common Council request the New York State Commissioner of Education to rescind his mass racial balance busing directive to the Board of Education as too costly and educationally unsound; and be it

FURTHER RESOLVED, that this Common Council express its total support of the Neighborhood School concept; and be it

FURTHER RESOLVED, that this Common Council express its opposition to any plans or policies which use children as pawns to achieve a racial balance or racial quota in the Buffalo Public Schools; and be it

FURTHER RESOLVED, that this Common Council express its full support of Congressman Jack Kemp's Constitutional Amendment which proposes that: "the right of students to attend the public school nearest their place of residency shall not be denied nor abridged for reasons of race, color, national origin, religion or sex"; and be it

FURTHER RESOLVED, that the City Clerk be directed to forward a certified copy of this Resolution to each Senator, Assemblyman and Congressman representing Western New York and to United States Senators of the United States.

Recommended by the Special Committee on Public Education.

HORACE C. JOHNSON,
Chairman.

Mr. Arthur moved to receive and file; seconded by Mr. Mitchell.

Lost.

Ayes—Arthur, Johnson, Mitchell—3.

Noes—Dauria, Franczyk, Gorski, Higgins, Hoyt, Lewandowski, Masiello, Okoniewski, Perla, Slominski, Volkert, Whalen—12.

The committee report was then adopted at suggestion of Mr. Mitchell by reversing the preceding roll call.

Adopted.

Ayes—Dauria, Franczyk, Gorski, Higgins, Hoyt, Lewandowski, Masiello, Okoniewski, Perla, Slominski, Volkert, Whalen—12.

Noes—Arthur, Johnson, Mitchell—3.

RESOLUTIONS.

No. 165.

By MR. DAURIA:

Memorialization State Legislature, State Financing of City Court Judges' Salaries.

WHEREAS, the jurisdiction of the City Court of Buffalo as a result of the state uniform Court system has been increased; and

No. 205.

By MR. PERLA:

Transfer of Funds — Appropriation Allotments — Regular Departments — Common Council.

That pursuant to Section 42 of the Charter and the certificate of the Mayor and the Comptroller submitted to the Common Council, the sum of $27,200.00 be and the same hereby is transferred from and to various accounts in Appropriation Allotments — Regular Departments, and said sum is hereby reappropriated in said Department, as set forth below:

FROM:

20—DEPARTMENT OF ASSESSMENT

03—Fiscal

Personal Services

110—Annual Salaries $27,200.00

TO:

01—COMMON COUNCIL

01—Legislative

Personal Services

110—Annual Salaries $14,400.00

113—Temporary Services 3,350.00

Public Utility Services

221—Electric, Light and Power 150.00

223—Gas 150.00

224—Telephone and Telegraph 275.00

Materials and Supplies

450—Janitorial 200.00

452—Office, Drafting and Laboratory 550.00

499—Miscellaneous 425.00

Other Services

780—Rentals 2,600.00

785—Professional Services 3,900.00

799—Unclassified 1,100.00

TOTAL $27,200.00

Passed.

Ayes—14. Noes—None.

No. 206.

By MR. PERLA:

Addition to Capital Program — 1971-1972.

That pursuant to Section 350 of the Charter and the certificate of the Mayor and the Comptroller, submitted to the Common Council, the Capital Program for the fiscal year 1971-1972 be and the same hereby is amended by adding thereto the following item under the heading:

DIVISION OF BUILDINGS

BOND FUND 09—Mobile

Equipment for Solid Waste Disposal System $60,000.00

Ayes—14. Noes—None.

Passed.

No. 207.

By MRS. SLOMINSKI,

MESSRS. WHALEN & VOLKERT:

Abolish School-Community Advisory Committee.

WHEREAS, the Buffalo Board of Education has created a School-Community Advisory Committee; and

WHEREAS, the Buffalo Board of Education, by action dated March 8, 1972, recommended that the School-Community Advisory Committee conduct hearings in the community and sound out citizen opinion on the desegregation study submitted on February 21, 1972; and

WHEREAS, it is my duty and responsibility of the Buffalo Board of Education to conduct such hearings to determine the feelings and opinions of the community; and

WHEREAS, such duty and responsibility cannot, or should not, be delegated by the Board of Education to any group or committee; and

WHEREAS, the existence of such a Committee establishes a shield or buffer zone between the Board of Education and the citizens of the community; and

WHEREAS, the total membership on said School-Community Advisory Com-

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Plaintiffs' Exhibit 193.

mittee is not truly representative of the community as a whole; and

WHEREAS, the members of the Board of Education can determine the feelings and opinions of the community only by personally, individually or collectively, attending or conducting such hearings; and

WHEREAS, in the past, most members of the Board of Education have been notoriously remiss in failing to attend public meetings concerning educational matters.

NOW, THEREFORE, BE IT RESOLVED, that this Common Council recommend to the Buffalo Board of Education that the School-Community Advisory Committee be abolished; and

BE IT FURTHER RESOLVED, that the City Clerk send a copy of this Resolution to the Board of Education and to the individual members thereof.

Mrs. Slominski moved approval of the resolution (seconded by Mr. Whalen).

Mr. Mitchell moved as an amendment to refer the resolution to the Board of Education (Seconded by Mr. Johnson).

Lost.

Ayes—Arthur, Gorski, Hoyt, Johnson, Mitchell—5.

Noes—Dauria, Franczyk, Higgins, Lewandowski, Masiello, Okoniewski, Slominski, Volkert, Whalen—9.

Mrs. Slominski now moved her original motion to approved the resolution.

Adopted

Ayes—Dauria, Franczyk, Gorski, Higgins, Lewandowski, Masiello, Okoniewski, Slominski, Volkert, Whalen—10.

Noes—Arthur, Hoyt, Johnson, Mitchell —4.

No. 208.

By MRS. SLOMINSKI &
MESSRS. WHALEN & VOLKERT:

Re: Request Re Racial Balance Programs.

WHEREAS, on February 21, 1972, an Advisory Planning Council on Desegregation submitted a proposal entitled "A Study of Desegregation" to the Board of Education; and

WHEREAS, said study proposed the creation of five racially-balanced school districts within the City and extensive cross-bussing of elementary children to racially balance the public schools; and

WHEREAS, the New York State Commissioner of Education, in an Order made public on January 24, 1972, asked, ". . . that the Board of Education submit . . . a desegregation plan for the schools in the Buffalo School system under which every school would substantially reflect the racial composition of the entire district" on or before April 1, 1972; and

WHEREAS, at the Board of Education meeting held on March 8, 1972, the Board of Education, by a 5-1 vote, recommended to its School-Community Advisory Committee that the said Committee conduct hearings in the Community to sound out citizen opinion on the Study of Desegregation; and

WHEREAS, there have been numerous citizen meetings throughout the City of Buffalo held for the purpose of discussing the Desegregation Study proposals, as said proposals affect the neighborhood schools; and

WHEREAS, it is evident at this time that the vast majority of parents of children attending the public schools are 100% opposed to cross-bussing and 100% in favor of retaining and returning to the neighborhood school concept.

NOW, THEREFORE, BE IT RESOLVED, that this Common Council request the Board of Education to forthwith discontinue any studies, hearings, proposals and plans to racially balance the Buffalo Public Schools; and

BE IT FURTHER RESOLVED, that this Common Council request the Board of Education to rescind and revoke any and all existing programs and policies to racially balance the Buffalo Public Schools; and

BE IT FURTHER RESOLVED, that this Common Council request the Board of Education to disregard the order of the New York State Commissioner of Education, Ewald Nyquist, dated January 24, 1972; and

BE IT FURTHER RESOLVED, that this Common Council request the Board of Education to advise the New York State Commissioner of Education, Ewald Nyquist, on or before April 1, 1972, of its decision to disregard the order of the Commissioner of Education dated Janu-

ary 24, 1972, and of the Board's decision to rescind and revoke the present racial balance policies in the City of Buffalo.

Mr. Mitchell moved to refer to the Board of Education; seconded by Mr. Arthur.

Mrs. Slominski amended to approve; seconded by Mr. Volkert.

Lost.

Ayes—Lewandowski, Slominski, Volkert, Whalen—4.

Noes—Arthur, Dauria, Franczyk, Gorski, Higgins, Hoyt, Johnson Masiello, Mitchell, Okoniewski—10

The matter was then referred to the Board of Education without objection.

No. 209.

By MR. VOLKERT:

Low Pressure in Leroy-Fillmore-Marigold Area.

WHEREAS, Item No. 184, C.C.P., February 8, 1972, was referred to the Commissioner of Public Works. Said Resolution stated:

There have been a number of complaints from the residents in the Central Park area because of the low pressure in this area; and

This appears to be a serious condition within each home; and

The low pressure of water in this area would be a serious hazard if a large fire occurred in said area and it would endanger this closely built residential area as most of the homes are of frame construction; and

WHEREAS, the Commissioner of Public Works was requested to submit a report to this Council at its next regularly scheduled meeting as to what action will be taken toward the correction of this hazardous condition; and

WHEREAS, to date no report has been received from the Commissioner of Public Works in reference to the above request.

NOW, THEREFORE, BE IT RESOLVED, that this Common Council again request the Commissioner of Public Works to report to this Council on Item No. 184, C.C.P., February 8, 1972, without further delay.

Referred to the Commissioner of Public Works.

No. 210.

By MR. WHALEN:

Appointments Commissioners of Deeds.

That the following named persons are hereby appointed as Commissioners of Deeds for the term ending December 31, 1972, conditional upon the persons so appointed certifying under oath to their qualifications and filing same with the City Clerk:

Dominick J. Dinino, Douglas A. Gust, Marjory C. Kerr, Carol D. Roesch.

Total—4.

Adopt.

No. 211.

By MR. WHALEN:

Appointments — Commissioners of Deeds Required for the Proper Performance of Public Duties.

That the following named persons are hereby appointed as Commissioners of Deeds for the term ending December 31, 1972, conditional upon the persons so appointed certifying under oath to their qualifications and filing same with the City Clerk:

John P. Shea, Janet Gianadda.

Total—2.

Adopt.

Announcement of Committee Meetings.

FINANCE: Tuesday, March 28, 1972, 9:30 A.M., Council Chamber.

CIVIL SERVICE: Tuesday, March 28, 1972, 10:30 A.M., or immediately following the Finance Committee meeting.

Plaintiffs' Exhibit 201.

THE UNIVERSITY OF THE STATE OF NEW YORK
THE STATE EDUCATION DEPARTMENT
OFFICE OF THE PRESIDENT OF THE UNIVERSITY
AND COMMISSIONER OF EDUCATION
ALBANY, NEW YORK 12224

June 21, 1968

Honorable Anthony Manguso
Corporation Counsel
City of Buffalo
Department of Law
Buffalo, New York

Dear Mr Manguso:

I have your letter of June 7 in which you inquire whether I have directed the Board of Education of the City of Buffalo to eliminate racial imbalance in the public schools.

In connection with an appeal taken to me pursuant to Education Law Section 310, by Yerby Dixon, et al, I issued a decision on February 15, 1965 directing the Board of Education to prepare, approve and submit to me, by May 1, 1965, a plan for the progressive elimination of racial imbalance in the public schools. A copy of that decision is enclosed.

Thereafter a proceeding was instituted by Karl and Mary Offermann in the United States District Court for the Western District of New York for the purpose of preventing the Board of Education from Complying with my order and questioning the constitutionality of my order. Judge Henderson dismissed the proceeding in December of 1965, and this decision was affirmed by the United States Court of Appeals for the Second Circuit in May of 1967. Copies of the decisions of these Federal Courts are attached.

Following the decision of the Circuit Court of Appeals, and on June 7, 1967, I, by letter to the President of the school board, reviewed the steps thus far taken by the Board of Education, and by others, pursuant to my order, and indicated the respects in which the Board's actions were inadequate. A copy of that letter is attached.

On July 7, 1967, following a meeting with the Board of Education, Deputy Commissioner Nyquist, by letter, outlined the respects in which the proposals of the Board failed to constitute an adequate plan for the progressive

Plaintiffs' Exhibit 201.

elimination of racial imbalance. Commissioner Nyquist offered to the Board the continuing assistance of this Department, and designated a representative of the Department to consult with the Board and the Superintendent on a continuing basis. A copy of Commissioner Nyquist's letter is attached.

I should point out that in my decision of February 15, 1965, I retained jurisdiction in the appeal brought by Mr Dixon pending the adoption by the Buffalo Board of Education of a plan for mitigating the problem of racial imbalance which meets with my approval, and I further reserved the right to make such additional order or orders as may be necessary to effectuate a plan approved by me.

On January 30, 1968, the President of the Board of Education submitted to me a document entitled "RECOMMENDATIONS FOR ACHIEVING QUALITY INTEGRATED EDUCATION IN THE PUBLIC SCHOOLS". By letter dated May 21, 1968, I commented on the major proposals set forth in the plan, requested that the Board of Education continue planning and acting toward the progressive elimination of racial imbalance and asking that the Board transmit to me by November 15, 1968 a report of action taken toward meeting such plans. A copy of my letter is attached.

In view of all these actions, [redacted] and to have the obligation and duty to move as rapidly as possible to eliminate racial imbalance in the public schools of Buffalo and to provide the best education possible for all pupils within an integrated setting.

Sincerely

James E. Allen, Jr.

Plaintiffs' Exhibit 212.

HOUSING PARLEY WILL CONSIDER NEGRO PROJECT

Buffalo, Washington authorities to confer Wednesday on $1,500,000 proposal

Chairman William L. Collins of the Buffalo Municipal Housing Authority announced last night that a conference has been arranged with representatives of the United States Housing Authority in Washington Wednesday, at which the city will submit a proposed site for a $1,500,000 low-cost housing development in the Negro section.

Mr. Collins said it originally was planned to submit two possible sites, but the authority had been requested by the federal authority to select a site and to prepare the application.

"We had planned to option two sites," Mr. Collins said, "and submit them both to Washington so that the one which could be acquired at the most advantageous cost and with the least trouble would be purchased. The federal authority, however, asked us to select the site and to confer with Frederick L. Naumeur of the land division and Burnett C. Turner of the technical division."

Funds for construction of the proposed development, it is expected, will be available from a balance allocated for the $4,900,000 Lakeview project. Work on this project will be started shortly.

FACES U. S. CHARGE

Alcohol found in man's auto, federal agents report

Nicholas Buerio, 32, of 391 Tr[illegible]ton Avenue, charged with possessing and transporting untaxed liquor, will be given a hearing next Thursday before U. S. Commissioner Harry E. Harding.

Buerio was arrested yesterday afternoon by Chief Martin O. Han[illegible] and his alcohol tax unit squad.

3,000 ATTEND NOVENA

Services at Lackawanna Basilica

More than 3,000 persons crowded Our Lady of Victory Basilica at Ridge Road and South Park Avenue last evening to begin a novena in honor of the Blessed Virgin Mary. Church authorities said it was the largest crowd in the church since the funeral of the late Mgr. Nelson H. Baker.

The service was dedicated to Our Lady of Sorrows and in its form follows one of the oldest rites of the Catholic Church. It originated about the thirteenth century with the band of priests known as the Order of the Servants of Mary. The service is congregational, in that prayers and hymns are recited and sung by the worshipers, instead of being led by a priest. Unusual in Catholic devotion locally was the Via Matris, or stations depicting the sorrows of Mary. The services are designed to extol the humanity of Mary, the Mother of Christ and of her part in Catholic thought as intercessor between mankind and her Son.

The Rev. Thomas A. Calkins, O. S. M., of Chicago, preached at the service. He explained its history and its meaning and also paid tribute to the late Father Baker, whose priesthood was marked principally by his devotion to Mary and his efforts to spread the devotion.

The novena will continue every Friday evening in the basilica. Next Friday, a service will begin at 7 o'clock and another will follow at 8 o'clock. Similar devotions in a Chicago church attract about 70,000 persons a week, Father Calkins said. The novena services last about 40 minutes.

Drowsy Feeling May Be Due To Fumes in Auto

If you feel drowsy while driving, beware, says the Buffalo Safety Commission. Your condition may be caused by the presence of deadly carbon monoxide which may be entering the car, either from your own engine's exhaust or from a truck or bus ahead if you are following too closely.

Sitting in a stationary car with the engine running and with the windows closed or nearly closed is dangerous.

If you feel sleepy or dizzy while driving, stop the car at once, leave it and fill your lungs with fresh air. See that your car is fully ventilated at all times.

HEARING ENDS ON ERIE PLEA

Witness says patronage enough for both trains, buses

Chief Engineer Malcolm G. Cleveland of the Public Service Commission yesterday closed a hearing on a petition of the Erie Railroad for permission to withdraw four Chowanda-Buffalo trains, Nos. 814, 815, 817 and 818, because of lack of revenue and patronage.

Supervisor Dudley A. Gaylord of North Collins, who has appeared as counsel for commuters at the hearing sessions held in recent weeks, under questioning by Grover James of Cleveland, counsel for the railroad, reiterated his contention that there is sufficient patronage for the railroad and for the Buffalo & Erie Coach Corporation, if a satisfactory schedule of runs is arrived at and the companies are not in direct competition with each other.

Commuters desire the trains, Mr. Gaylord said. He added that he believes the commission should give no thought to their withdrawal be-

DEATH REPORT AWAITED

Penitentiary inmate dies of burns; verdict withheld

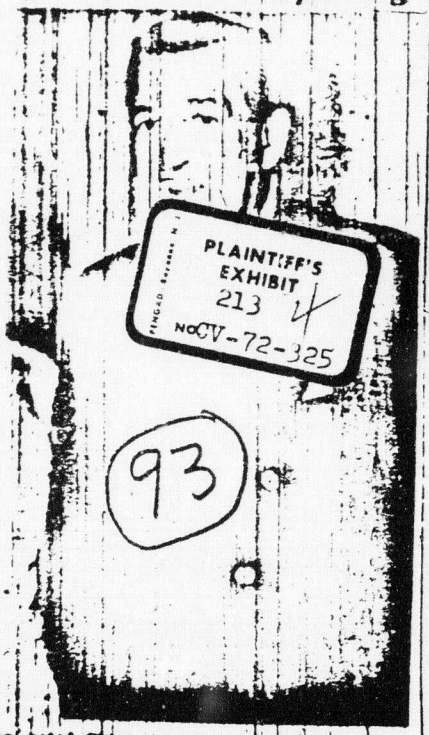
Awaiting a report from penitentiary officials, Medical Examiner Charles E. Long last night said he would withhold issuance of a death certificate in the case of Ella [illegible] Doherty, 38, of 366 Watson [illegible]

1632
Plaintiffs' Exhibit 213.

Courier BUFFALO EXPRE

BUFFALO, N. Y., FRIDAY MORNING, JULY 25, 1941

ttends Drive's Opening



ng, noted Chinese aviatrix, was guest of honor ...ception in hotel ...ter opening the drive of Buffalo ...Relief, Inc. ...also is seen with James O. Elaine.

200-UNIT NEGRO PROJECT HERE GETS APPROVAL

Construction of dwellings for defense workers to be handled by MHA

Courier-Express Washington Bureau

Washington, July 24—Assignment of a 200-unit defense housing project for Negro workers in Buffalo was announced today by John M. Carmody, federal works administrator. Construction will be handled by the Buffalo Municipal Housing Authority, working through the U. S. Housing Authority.

Carmody announced no site selection, but it was said that at least three sites are under consideration. Representative Alfred F. Beiter, Buffalo Democrat, declared that he would press for selection of the Willert Park site for the new project. There is some available land there and more can be acquired with little difficulty, he said.

Beiter pointed out that Negro workers of Buffalo have expressed a preference for an addition to the Willert Park project and that extension of the present development would tend to ease operations. The present Negro housing development there, he declared, is a model of efficiency and he felt that extension of that project would provide housing of a high standard.

Carmody said work will be started as soon as architectural designs can be finished and advertisements placed for bids.

PURTILL FOUND GUILTY

Postoffice clerk to be sentenced August 4th

Special to The Courier-Express

Jamestown, July 24—After ten hours of deliberating, a jury in federal court here tonight found James J. Purtill, 48, former Buffalo postoffice clerk, guilty on nine counts of delaying the mails. The verdict climaxed a three-day trial. Sentence is to be imposed at Buffalo August 4th.

The defendant contended yesterday while on the stand that he had been framed.

Berger's
Books
Are Closed . . .
CHARGES
billed this way:
Pay ⅓ September 10
Pay ⅓ October 10
Pay ⅓ November 10

Berger's
514 Main Street

FALL
TRAFFIC
SIGNALS
appear
AROUND the STOR

FIRST THING to stop th
traffic is SIGNAL RE
smooth shouldered casu
jacket suit of STROOCK
virgin wool, alpaca, ar
rabbit's fur fabric! Re
member the "love" w
had in the sports sho
this spring! This is i
closest relation . . . n
only in red but also Trin
dad brown, squadron blu
forest green, or natur
10 to 20 sizes and o
29.95.

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Help,
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HEALTH IN SLUM AREA REPORTED ABOVE AVERAGE

Report says publicity given Little Hollywood unwarranted but board disagrees

The publicity given Little Hollywood as a slum area in the South ... was "at no time ... justified or warranted by the facts," Dr. Frank Whelply, health ... physician, com-

CLOSED SATURDAY . . . SHOP TODAY

Berger's
514 Main Street

Vassarette
to keep you cool
to shape you
5.00

For a Summer of doing things don't let your figure down! Keep it supple, smooth, comfortable with a Vassa-

Stop Plans for Negro Housing

11 Groups Declare South Buffalo Is United Against Okell Street Site; Mass Protest Will Be Held

Officials of eight South Buffalo business and civic groups and three labor unions combined today in an appeal to Senator James M. Mead and Representative John C. Butler to secure abandonment of a plan to locate a federal defense-housing colony for 200 Negro workers in Okell Street near South Park Avenue.

Meanwhile, the Rt. Rev. John J. Nash, pastor of Holy Family Church, sent the following reply to a request from Representative Butler, in whose district the Okell site is located, asking whether or not the clergyman approved the project:

"The Okell Street project threatens to destroy the work of 40 years to build up the South Park district. The right to protect our homes is as sacred as the right to defend our lives. The citizens of the South Park district, to a man, protest and will not permit this injustice."

Petitions Are Planned

The Rev. David Coughlin, pastor of St. Ambrose Parish, which includes the Okell Street site, said petitions would be circulated in the neighborhood to have the selection rescinded.

Father Coughlin said he wanted "to protest vehemently against this project in the name of the people living in this district. Of course the Negro workers should be taken care of but this is not the place. There are none living or working here now. Execution of such a project would tremendously reduce the value of homes in this neighborhood, homes which represent the life savings of many of our parishioners."

The 11 civic and labor leaders sent a telegram to the two legislators asking an investigation of the project and that "you do all in your power to stop these plans immediately; all South Buffalo is united in opposition to this project." The signators are:

Leaders Sign Protest

Andrew O. Jacobsen, chairman of the board of directors Tri-Abbott South Park Businessmen's Association; Leon Strauss, president, South Buffalo Businessmen's Association; Hugh R. Shreenan, president, Pioneer Civic Association; Mrs. Edward C. Bogner, president, South District Better Political Club, Mrs. Thomas C. Cuffe, president, Women's South Park Community Club.

Mrs. Patrick J. Ridge, acting president, South Buffalo Women's Democratic Club; Mrs. Bertram Smith, president, Women's Civic Club of South Buffalo; John J. Frizzell, president, South Side Club; August Wolfe, president, Tug Firemen; Coleman Perkins, president, Grain Shovelers, and Thomas F. Higgins, vice president, Freight Handlers' Union.

Mass Meeting Planned

Supervisor William A. Boyer of the Second Ward also requested Senator Mead and Representative Butler to have the site selection rescinded, contending that if the project is intended to care for Negro workers in the Bethlehem Steel Company plant in Lackawanna it should be located in Lackawanna.

Supervisor Andrew J. Morrisey, 151 Kentucky st., of the First Ward also joined in the protest against the site, with the following letter to the Buffalo Evening News:

"I wish to protest against the Negro defense-housing site for South Buffalo. I have received protests from all the people of South Buffalo. Many new homes which are now being built will become depreciated. Why not clear the slum areas? South Buffalo is growing rapidly, and this would very much hinder its progress."

Egan Clarifies Stand

Under auspices of the Mungovan Men's Club, a protest meeting will be held tonight at 8 o'clock at 216 Colgate ave. Tomorrow evening a mass meeting will be held in Brown's Hall, 2023 Sou[illegible] ark ave.

G. Nelson Tatu, Republican candidate for councilman in the South District, who arranged it, emphasizes that the gathering will be nonpartisan, with everyone invited to join in the protest.

Okell Street runs west from McKinley Parkway, crosses South Park Avenue and ends at Hopkins Street. The site selected by federal officials for the Negro project is near Hopkins.

The position of the Buffalo Municipal Housing Authority in the selection was set forth by Chairman John J. Egan in the following statement recounting his reply to a man who inquired by telephone if Mr. Egan had any hand in the selection of the Okell Street site:

Pastors Protest

"My reply to the irate gentleman was that I had—that we showed the Okell site among many others to federal officials for possible defense housing.

Insofar as a specific Negro project was concerned we concurred in the recommendation previously made by Robert Taylor, FWA consultant on racial conditions."

This recommendation was for a site in Clinton Street in Cheektowaga and was adopted by FWA and USHA officials, but subsequently set aside because of protest from Cheektowaga officials and other residents.

Jamestown Bank Accepts Jackson's Resignation

Special to the Buffalo Evening News.

JAMESTOWN, Aug. 14. — The resignation of Associate Justice Robert H. Jackson of the U. S. Supreme Court as a director of the Bank of Jamestown has been accepted with regret by the Board of Directors, George C. Niebank, president, announced today. Justice Jackson became a member of the board in 1919 while practicing law here.

Unlicensed Driver Placed on Probation

Pleading guilty to one of two charges of driving without a license, Blase Milici, 18, of 122 Seventh st. was held for a Probation Department report Wednesday and later returned to City Judge Joseph J. Kelly's courtroom for sentencing. A 30-day term was suspended and he was put on probation for a year. Judge Kelly dismissed the second charge and suspended sentence on an additional charge of driving an unregistered car.

Artificial Leg Donated

SCRANTON, Aug. 14 (AP)—Eager to aid defense, Mrs. Mary Ligi donated a [illegible] artificial aluminum [illegible] to the aluminum collection

[illegible] day evening in Catholic [illegible] Hall.

Her second appearance [illegible] Court in two days on intox[illegible] charges resulted in a ten-da[illegible] tentiary sentence today for [illegible] Allen, 52, of 103 North [illegible] st pleaded guilty.

A drunken-driving charge [illegible] Walter Krawczak, 25, of 123[illegible] mpee st. was dismissed [illegible] Court today for insufficie[illegible] dence. He pleaded guilty to [illegible] ond charge, driving withou[illegible] cence, and paid a $10 fine.

Possession of a policy s[illegible] Fred Hill, 41, of 639 East E[illegible] a $5 penalty when he pleaded [illegible] in City Court today.

Sixty-one Cygni, the first [illegible] have its distance from the [illegible] measured, will be visible to[illegible] evening from 9 to 10 throu[illegible] Museum of Science telescop[illegible] star is 27-trillion miles fr[illegible] earth.

Body of Buffalonian Taken From Bear Lake

Special to the Buffalo Evening News.

DUNKIRK, Aug. 14.—Th[illegible] of Anthony H. Millewski, 3[illegible] St, Joseph st., Buffalo, w[illegible] drowned in Bear Lake, a[illegible] miles south of here, Sunday[illegible] ing, was recovered shortly [illegible] o'clock Wednesday afterno[illegible] State Trooper W. J. Szama[illegible] Westfield and Walter Lam[illegible] resident of Bear Lake. Th[illegible] was found in 30 feet of w[illegible] short distance from the bea[illegible]

Mr. Millewski and his [illegible] came to Bear Lake Saturd[illegible] ning to spend the week-e[illegible] went fishing in a rowboa[illegible] o'clock Sunday morning an[illegible] lieved to have lost his [illegible] while casting.

Coroner George E. Blood[illegible] domia issued a certificate o[illegible] by accidental drowning. Th[illegible] was taken to Buffalo for [illegible] Mr. Millewski, who was a [illegible] ter, is survived by his wif[illegible] Stella Millewski, and a s[illegible] thony Jr., 10.

Robbery Victim Held As Material Witness

A robbery victim was co[illegible] to jail as a material witne[illegible] after two men who allege[illegible] costed him in a parking l[illegible] took $23 pleaded innocent [illegible] Court. Charged with first [illegible] robbery, the suspects, John [illegible] 30, of 311 14th st. and Fra[illegible] Santia, 37, of 296 Swan st [illegible] arraigned before Judge Ha[illegible] Zimmer, who set Monday [illegible] hearing and fixed bail for D[illegible] at $1000. Sesco has been [illegible] on bail.

The men were arrested [illegible] foot chase during which De[illegible] Austin J. Curry and De[illegible] Keane fired four warning [illegible] The detectives said they di[illegible] the men in the act of robbi[illegible] Karmacynski, 40, of 86 Eas[illegible] st. in a parking lot at 78 Eas[illegible] early Wednesday morning.

At the suggestion of A[illegible] District Attorney Alfred E[illegible] Judge Zimmer ordered [illegible] ski held in default [illegible]

PLAINTIFF'S EXHIBIT 215 NO. CV-72-325

95

108

Plaintiffs' Exhibit 228.

UNDERWRITING MANUAL

UNDERWRITING AND VALUATION PROCEDURE

UNDER TITLE II OF THE NATIONAL

HOUSING ACT

FEDERAL HOUSING ADMINISTRATION

WITH REVISIONS TO JUNE 1, 1938

WASHINGTON, D.C.

U.S.G.P.O.

1938

---> Same title page as above for the 1936 manual

except --> "WITH REVISIONS TO NOVEMBER 1, 1936"

---> same title page as above for the 1935 manual

except there is no citation of amendments

PLAINTIFF'S EXHIBIT 228 No. CV-72-325

Plaintiffs' Exhibit 228.

be made to determine if the neighborhood under consideration in a given case is increasing in population and/or desirability, or is losing population and/or desirability, or is maintaining its position in these respects and is likely to continue to maintain it. Declines in city or neighborhood population always introduce influences destructive of stability. Increases of city or neighborhood population destroy the stability of some neighborhoods and enhance the favorable prospects for other neighborhoods within the same community.

(*c*) Availability of permanent and profitable employment for the inhabitants of a neighborhood introduces a condition which favorably affects the rating.

(*d*) The existence of a high degree of home ownership and owner occupancy in the neighborhood tends to create and maintain stability and desirability and will favorably affect the rating.

(*e*) Zoning which is incongruous with the actual use to which sites in residential neighborhoods are being put introduces an element of instability; for, even though deed restrictions exist which prevent use of the land for purposes permitted by the zoning ordinance, the possibility of the breaking down of the deed restrictions is increased. An example would be a case in which zoning permits commercial use while the neighborhood is predominately devoted to multiple family residential structures; or a case in which multiple family residential buildings are permitted by zoning regulations although the district is actually improved with single family residences only. Highest feature ratings are unwarranted in such cases, and "Reject" ratings may be warranted if appropriate and effective deed restrictions do not exist.

(*f*) Residential neighborhoods in transition from one use to another do not merit high feature ratings as to stability.

PROTECTION FROM ADVERSE INFLUENCES

309. The matters to be considered in rating this feature are the factors which afford protection to and preservation of the desirable characteristics of residential neighborhoods. Numerous influences can so change these characteristics that the neighborhood will become entirely undesirable for residential purposes. Protection against some adverse influences is obtained by the existence and enforcement of proper zoning regulations and appropriate deed restrictions. Some unfavorable factors may exist outside of the neighborhood and may be uncontrollable. Published and utilized programs of city planning afford some assistance in preventing the occurrence or growth of adverse influences. Sometimes a neighborhood may be so completely built up and well planned that although

Plaintiffs' Exhibit 228.

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maintain it. Declines in
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INFLUENCES

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well planned that although

no zoning regulations or deed restrictions exist, the adverse influences against which such controls protect may be absent or of remote probable occurrence. The natural geography of a neighborhood may also present effective barriers against some adverse influences.

310. Important among adverse influences besides those mentioned above are the following: infiltration of inharmonious racial or nationality groups; infiltration of business or commercial development or use; the presence of smoke, odors, fog; proximity to noisy or high-speed traffic arteries, to railroads, and to nuisances.

311. Some adverse influences develop in intensity very gradually and cannot readily be discovered in their early stages. Some occur only after the neighborhood has been developed for a number of years. The time of such occurrence and probable intensity of the influence must also be considered in order to arrive at a proper rating.

312. All mortgages on properties in neighborhoods protected against the occurrence or development of unfavorable influences, to the extent that such protection is possible, will obtain a high rating of this feature. The absence of protective measures will result in a low rating or, possibly, in rejection of the case. The actual rating given must be commensurate with the degree in which adverse influences exist or are likely to occur, the remoteness of such occurrence, and the extent to which protection is provided.

ADEQUACY OF TRANSPORTATION

313. Adequate transportation between a neighborhood and the place of employment of its inhabitants, as well as between it and other neighborhoods and the center of the city, is important. This transportation may be supplied by means of bus, trolley, elevated railway or subway lines, or ferry boats. The existence of transportation lines to other neighborhoods usually enhances the desirability of a residential area. The highest rating of this feature will be given in cases of neighborhoods which are adequately supplied with transportation facilities which are likely to continue throughout the life of the mortgage. If transportation facilities are inadequate or are likely to be discontinued, lower ratings will result, the rating depending upon the degree of inadequacy.

314. In determining the rating of this feature, consideration must be given to frequency and adequacy of service, relative excellence of equipment, fares charged, and the customs and desires of the inhabitants of the neighborhood with regard to methods of transportation. In some districts the inhabitants are accustomed to rely upon their own private means of transportation, and other

Plaintiffs' Exhibit 228.

systems of transportation become of minor importance, although their presence would even then be desirable and result in the highest ratings of this feature. However, in such cases high ratings would generally be warranted even though no public means of travel to other portions of the community be near at hand. It is essential that when ratings as to adequacy of transportation are being made, the needs and wishes of the people living in the district be given major consideration.

APPEAL OF THE NEIGHBORHOOD

315. The appeal of a residential neighborhood results from the general condition and attractiveness of the properties located therein; the kind and social status of the inhabitants; nearness to commercial centers and facilities for religious worship and for recreation, amusement, and sports, such as swimming, boating, riding, tennis, and golf; the provision of adequate police and fire protection; proper maintenance of the public streets and other public improvements; the percentage of owner occupancy, the degree to which the neighborhood is built up; and other similar factors.

316. The rating of this feature will be greatest when the mortgaged property is situated in an exceptionally desirable neighborhood. On the other hand, if influences are present or are likely to occur which will lessen the attractiveness of the neighborhood, it becomes less appealing to the general public for home use, and a lower rating will be given.

317. Sometimes a neighborhood may be popular and in public demand because of its geographical location or its topographical character. Such attributes, because of their permanent nature, generally result in strong assurance of lasting appeal and warrant a high rating of this feature.

SUFFICIENCY OF UTILITIES AND CONVENIENCES

318. "Utilities and conveniences" may be considered to include electricity, gas, water, telephone, postal service, sewers, garbage disposal, storm drains, parkways, street lights, fire and police protection, and street cleaning services—all for the neighborhood as a whole. When these utilities and conveniences are provided so as to adequately meet the needs of the inhabitants of a neighborhood, the highest rating of this feature will result.

319. The absence of some of the less important factors should not bring about a disqualifying or extremely low rating so long as the more important ones are well supplied. Absence of fire and police protection will not be grounds for a "Reject" rating.

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granted in the case of any mortgage upon a residential property which is to be located in a proposed new subdivision, or which is located in a sparsely built-up subdivision or neighborhood, special studies and reports must be made by the Underwriting Department in the Insuring Office having jurisdiction over the case. The aims and purposes of these studies are not only to determine the soundness of the subdivision project, or the suitability of the location of the subdivision or neighborhood, but also to render a service to developers of new residential neighborhoods by pointing out to them matters which are considered objectionable from the standpoint of the Administration and to give assistance in remedying defects and objectionable features of the projects presented for consideration.

330. In sparsely developed or proposed new residential areas low ratings with regard to the features Stability of the Neighborhood, Adequacy of Transportation, Appeal of the Neighborhood, Sufficiency of Utilities and Conveniences, and Presence of Civic, Social, and Commercial Centers will often be found warranted. Of course, this will not be true in all cases. For example, if the area is one that is being newly developed and there is an apparent strong demand for residential accommodations in the area, the existence of this demand would indicate that conditions in the subdivision and its environment were acceptable to persons in the market. The intensity of the demand for sites in new neighborhoods, coupled with the intention on the part of purchasers to improve these sites immediately, rather than merely to hold them for speculative purposes, results in a rapid absorption of the sites into use. When this condition is found to exist and the area has been properly planned so that it fits in harmoniously with the adjacent neighborhoods; when fullest advantage has been taken of available means to protect the area against adverse influences and to insure that it will develop into a homogeneous residential district, possessing strong appeal to the class of persons expected to desire accommodations in it, a high neighborhood rating will be warranted. The minimum requirements outlined in Circular No. 5 must always be observed.

331. In cases where an application for insurance involves a property located in a proposed new subdivision, in an undeveloped subdivision, or in an undeveloped neighborhood, the Underwriting Department in the Insuring Office receiving the application must make a special study of the subdivision or neighborhood and of all conditions affecting it from the standpoint of mortgage risk. This same procedure must be followed whenever an informal opinion is sought as to whether or not a proposed new subdivision or undeveloped subdivision is a suitable location for residential properties which constitute proper security for mortgages submitted for insur-

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PROTECTION FROM ADVERSE INFLUENCES

226. This feature has a total weight of 20, making it ... of the most important features in the Rating of Location. P... tion from adverse influences is not concerned merely with zoni... deed restrictions. These are of great importance, but they d... represent all of the protection which is or may be afforded a loca... Where little or no protection is provided against adverse influenc... Valuator must not hesitate to make a reject rating of this feature.

227. Protection in the form of zoning restrictions ... becoming almost universal. The best artificial means of provi... protection from adverse influences is through the medium of app... priate and well drawn zoning ordinances. If the framers of the zo... ordinance have used excellent judgment in establishing areas, an... the provisions of the ordinance itself have been well worded a... drawn from a thorough knowledge of conditions existing in the ... and those which will most probably exist in the future, and if ... zoning ordinance receives the backing of public approval, an excell... basis for protection against adverse influences exists. If the ordi... has been drawn with little or no real understanding of its purpos... a genuine desire to promote an orderly city growth, or if it lacks p... approval, the chances are that it will offer little protection a... adverse influences to residential properties. Even when ably ex... ecuted, investigation must be made to determine whether or n... infractions of the zoning law are permitted. If the law may be changed readily or if the provisions themselves are not strict... enforced, it should be given little consideration by the Valuator i... determining a location's protection from adverse influences. Greater importance is attached by the Federal Housing Administration t... zoning protection in and near large metropolitan centers than ... places having smaller populations and less rapid rates of growth. Absence of zoning may be a proper basis for rejection in the former case, but would not cause rejection in the latter type of case.

228. Deed restrictions are apt to prove more effective than a zoning ordinance in providing protection from adverse influences. Where the same deed restrictions apply over a broad area ... where these restrictions relate to types of structures, use to which improvements may be put, and racial occupancy, a favorable condition is apt to exist. Where adjacent lots or blocks possess altogether different restrictions, especially for type and use of structures and racial occupancy, the effect of such restrictions is minimized and adequate protection cannot be considered to be present. A location lying in the path of business expansion is often unprotected from the business encroachment even though deed restrictions for residential use may be present. It must be realized that deed restrictions, to be effective ... be enforced. In ... re there is the ... quate enforcement ... little or no prot... roperty so situate ... es, even the ... ably be put to its ...

229. The ... ertain instances ... location lies in the ... e of residential pro... ties which would ... ity of a change in ... tion is remote. The ... ity or lack of ... raphical position ... d barriers will prove ... locations within it ... against adverse in... vention of the infil... s occupancy, and ... public park or are... infiltration of ... direction. Hills ... y many times ... sult that protection ... tions in its vicinity. ... way may prevent ... on the opposite ... riers are of such ... ough study to deter... he rating of this fea... he artery passes dir... similar develop... ring a protection ... stitutes in itself ... presence of rail... portation.

230. Wh... ly developed in ... development adj... re conditions, ... y solidly develo... ar different from ...

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be enforced. In this respect they are like zoning ordinances. ...re there is the possibility of voiding the deed restrictions through ...equate enforcement of their provisions, the restrictions themselves ...little or no protection against adverse influences. In other words ...property so situated that its logical use is other than for residential ...ses, even though it is restricted to such residential use, will ...ably be put to its highest and best use in the course of time.

229. The geographical position of a location may afford ...certain instances reliable protection against adverse influences. If ...cation lies in the middle of an area well developed with a uniform ...e of residential properties, and if the location is away from main ...ways which would logically be used for business purposes, prob...ility of a change in type, use, or occupancy of properties at this ...cation is remote. The Valuator should consider carefully the im...unity or lack of immunity offered to the location because of its ...graphical position within the city. Natural or artificially estab...ed barriers will prove effective in protecting a neighborhood and ...locations within it from adverse influences. Usually the protec...n against adverse influences afforded by these means include ...vention of the infiltration of business and industrial uses, lower-...s occupancy, and inharmonious racial groups. A location close ...a public park or area of similar nature is usually well protected ...n infiltration of business and lower social occupancy coming from ...t direction. Hills and ravines and other peculiarities of topog...phy many times make encroachment of inharmonious uses so ...ficult that protection is afforded. A college campus often protects ...cations in its vicinity. A high-speed traffic artery or a wide street ...eway may prevent the expansion of inharmonious uses to a loca...n on the opposite side of the street. These natural and artificial ...rriers are of such importance that the Valuator should make a ...rough study to determine their presence and reflect such conditions ...the rating of this feature. On the other hand, when a high-speed ...c artery passes directly through a desirable neighborhood area ...h similar development on each side of the artery, instead of ...ving a protection the noise and danger attendant upon its presence ...stitutes in itself an adverse influence. The same holds good for ...presence of railroads, elevated or surface lines, and other ...sportation.

230. When a neighborhood with its locations has been ...ly developed in accordance with accepted good housing practices ...development alone usually constitutes, in the absence of extreme ...rse conditions, good protection against adverse influences. But ...y solidly developed neighborhood areas present conditions which ...far different from what is at present regarded as good housing

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accommodations offered. Distances to the schools should be ... to the public or private means of transportation available from the ... question to the school.

266. The social class of the parents of children at the school will in many instances have a vital bearing. Thus, although physical surroundings of a neighborhood area may be favorable and conducive to enjoyable, pleasant living in its locations, if the children of people living in such an area are compelled to attend school where the majority or a goodly number of the pupils represent a far lower level of society or an incompatible racial element, the neighborhood under consideration will prove far less stable and desirable than if this condition did not exist. In such an instance it might well be that for the payment of a fee children of this area could attend another school with pupils of their same social class. The question for the Valuator to determine is the effect created by the necessity for making this payment upon the occupants of the location. Under any conditions the rating could not be as favorable as if the desirable school were available without additional cost. In many instances where a school has earned a prestige through the class of pupils attending, it will be found that such prestige will be a vital element in maintaining the desirability of the entire area comprising the school district.

267. Where the Valuator encounters an area built up with high-priced properties occupied by people of high-level incomes and adequate school facilities are not immediately present, he should investigate to determine whether or not children of the area are attending private schools and whether or not such private schools are served by a bus line for the children. It may be that the area is occupied by people of sufficient financial strength to provide transportation to and from the school by private automobile with chauffeur. Such a condition is rarely as favorable as when the school is served by public transportation. Where it is necessary for members of the pupils' families to drive the children in the family automobile to and from school, rating for this feature will be adversely affected since the inconvenience will reflect unfavorably on the desirability of the location.

268. For certain types of neighborhoods means of recreation are essential whereas in others they represent merely a passive contribution to general welfare. For locations in cities which are devoted in part or as a whole to the tourist or resort business almost the entire basis for stability is represented by the means provided for recreation and amusement. Ready access to neighborhood and downtown theaters, public and private golf courses, and park and playground areas is always desirable. It is required that the Valuator

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provided those ... the location ...

...ds may be listed ... ...es in contour of ... ...er streets, ferry ... ...ing with the storage ... ...es, possibility of ... ...ger from tidal waves, ...tunnels or excavat... ...uld remember that ... ...parative advantages ... ...deration with all ... ...within the city. Where ... ...dos or earthquakes, ...generally unfavorable ... ...to set a "ceiling" or ... ...conditions are found ... No location's rating ... ...established. Locat... ...new additional hazards ... ...er. In any event, the ... ...bility of the locat... ...ct. Where conditions ... ...of the properties are ... ...some instances a reject...

...some cities is such that ... purposes largely because ... employment or the ... ...subjected to intense ... ...fers, and, in some ... ...does such locations ... ...ted.

...UNDEVELOPED SUBDIV... ...SIDENTIAL AREAS

...rinciples for develop... ...graphs of this Sect... ...ly developed area ... ...a considerable ... ...pment that will ... ...ations in combi... ...ion must be given ...

...tures when rating such locations. These special considerations ...be outlined in succeeding paragraphs.

281. Successful new areas are recognized as the best mortgage-lending areas. To be successful a new or partially developed area must reach a stage of being substantially built up within a period of a very few years. Due to the fact most outlying residential areas will be developed as a result of the decentralization movement rather than as a result of population increases, the economic background of the community assumes great importance, since those communities which will experience a prosperous future will decentralize much faster than those for which a less advantageous future is forecast.

282. With assumptions in combination with certain known conditions as the basis for rating, new and partially developed locations require low ratings, that is, satisfactory areas receive a passing percentage but no high total rating. As the character of these areas is established, ratings can be raised or lowered to reflect existing conditions. The character of the area becomes evident when a considerable percentage of lots have been improved or when satisfactory concentration of dwellings is present. The wave system of development, that is, concentration of improvement and building activity in a definite portion of the subdivision until it is established before starting activity in an adjoining section, is an orderly procedure which may greatly reduce mortgage risk. Such a program assures structures of the same age, and if development is halted for any reason a close grouping of homes will increase neighborhood and location stability.

283. **Relative Economic Stability.**—In rating this feature the Valuator considers the combined income characteristics of both occupants and persons constituting the market for the type and future class of improvements contemplated. Since an assumption is the basis for rating high ratings are seldom justified.

284 (1). **Protection from Adverse Influences.**—The Valuator should realize that the need of protection from adverse influences is greater in an undeveloped or partially developed area than in any other type of neighborhood and, in general, a high rating should be given only where adequate zoning regulations or effective deed restrictions exist inasmuch as these provide the surest protection against undesirable encroachment and inharmonious use.

284 (2). Carefully compiled zoning regulations are the most effective because they not only exercise control over the subject property but also over the surrounding area. However, they are seldom complete enough to assure a homogeneous and harmonious neighborhood.

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284 (3). Recorded deed restrictions should strengthen and supplement zoning ordinances and to be really effective should include the provisions listed below. The restrictions should be recorded with the deed and should run for a period of at least twenty years. Recommended restrictions include the following:

(*a*) Allocation of definite areas for specific uses such as single- or double-family houses, apartments, and business structures.

(*b*) The placement of buildings so they will have adequate light and air with assurance of a space of at least ten feet between buildings.

(*c*) Prohibition of the resubdivision of lots.

(*d*) Prohibition of the erection of more than one dwelling per lot.

(*e*) Control of the design of all buildings through requiring their approval by a qualified committee and by appropriate cost limitations.

(*f*) Prohibition of nuisances or undesirable buildings such as stables, pig pens, temporary dwellings, and high fences.

(*g*) Prohibition of the occupancy of properties except by the race for which they are intended.

(*h*) Appropriate provisions for enforcement.

284 (4). The fact that zoning regulations and deed restrictions exist does not necessarily mean that a high rating is warranted. The type of use permitted by such regulations should be carefully analyzed, for frequently areas are zoned and restricted in a manner that would encourage land use which would greatly decrease its desirability for residential purposes. The Valuator should measure that the protection provided is appropriate to the best use of the land.

284 (5). Some areas in which there are no zoning regulations or restrictions may be considered properly protected because of the favorable situation of the development or the topography of the land. The natural protection afforded in such instances might be sufficient to warrant a good rating.

284 (6). Additional protection and stability is afforded by city plans and subdivision regulations that are officially recognized and enforced. Such plans will avoid making noisy, high-speed traffic arteries out of residential streets; will establish barriers between residential and industrial or railroad properties; and assure that the forward growth of the city will be orderly and harmonious. Any undeveloped subdivision falling within the jurisdiction of a city, county, or regional plan shall conform to such plan and regulations. These regulations may be evaded in many States through the sale of property by metes and bounds, for when a subdivision is sold in this

...ay the plot plan can be changed ... this reason it is highly preferable ... recorded plat.

284 (7). A partially ... in that condition represents in its ... make the area undesirable for ... cautioned against placing too much ... zoning in such areas. He should ... assure early development of the area ... stagnation or slow, unhealthy growth ... will offer such protection are the ...

(*a*) Situation of development ...

(*b*) Contemplated use of ... such conditions as topography, character ... area.

(*c*) A physical need for proposed ... plated.

(*d*) Combined cost of lot ... selling prices and values of completed ...

(*e*) Development planned in accordance ... ards of good housing.

(*f*) A strong financially capable ... confidence of the market.

283 (1). Adequacy of ... to determine the requirements and ... chasers of homes in the new area ... regard of the area under consideration ... within the city. In a development ... crease of a few cents in the cost of transportability of otherwise desirable products ... tomobiles alone cannot be considered ... ay except the higher income groups ... ible public transportation facilities ... of the area.

285 (2). At times ... new areas will be planned though ... ew rating is required until the trend ... A rejection is indicated unless ... assured even though planned and ...

286 (1). Need for ... ing evidence of a healthy and active ... emplated in the particular locality ... good rating is warranted. For an ... area to qualify under this feature it ...

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...ther different restrictions, especially for type and use of structure and occupancy, the effect of such restrictions is minimized. A ... lying in the path of business expansion is often unprotected ... business encroachment even though deed restrictions for residential use may be present. It must be realized that deed restrictions, to be effective, must be enforced. In this respect they are like ... ordinances. If there is a probability of voiding the deed ... tions through inadequate enforcement of their provisions, the ... tions themselves offer little or no protection from adverse ... nces. In other words, if a property is so situated that its logical ... other than for residential purposes, it will very likely be put ... highest and best use in the course of time, even though it is ... ted to residential use.

935. *Natural Physical Protection.* The geographical ... on of a location may afford reliable protection from adverse ... nces. If a location lies in the middle of an area well developed ... a uniform type of residential properties, and if the location is ... y from main arteries which would logically be used for business ... poses, probability of a change in type, use, or occupancy of properties at this location is remote. The degree of immunity offered to ... location because of its geographical position within the city is to be considered. Natural or artificially established barriers will prove ... tive in protecting a neighborhood and the locations within it ... adverse influences. Usually the protection from adverse influences afforded by these means includes prevention of the infiltration of business and industrial uses, lower class occupancy, and inharmonious racial groups. A location close to a public park or area of similar nature is usually well protected from infiltration of business and lower social occupancy coming from that direction. Hills and ravines and other peculiarities of topography often make encroachment of inharmonious uses so difficult that protection is afforded. A high speed traffic artery or a wide street parkway may prevent the expansion of inharmonious uses to a location on the opposite side of the street. However, if a high speed traffic artery ... directly through a desirable neighborhood area with similar ... elopment on each side of the artery, the noise and attendant ... ger constitute an adverse influence, rather than a protection. ... same holds true for the presence of railroads, elevated or surface ..., and other means of transportation.

936. *Surrounding Homogeneous Neighborhood.* When ... neighborhood has been solidly developed in accordance with ... good housing practices, such a development alone usually con... ...tes good protection from adverse influences. But many solidly

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developed neighborhood areas present conditions which are far different from that which is regarded as good housing practice. Little protection is offered to such a neighborhood because of the probability that new and more attractive competing neighborhoods will be developed. The solidly built up neighborhood where good planning has not been provided is readily subject to change in occupancy. Narrow streets, excessive lot coverage, inadequate light and air, poor circulation within the neighborhood area, as well as the presence of mixture of types, price levels, and a general absence of architectural attractiveness in dwellings, represent adverse influences in themselves.

937. *Quality of Neighboring Development.* The quality of dwelling construction is significant, inasmuch as unsubstantial, flimsy construction is subject to rapid deterioration which leads to the lowering of class of occupancy. The same result may be expected for locations whose properties present freakish architectural designs. The rating will be adversely affected if the neighboring development consists of old, obsolete dwellings. The presence of overimprovement or underimprovement in the neighborhood constitutes a condition which may adversely affect location ratings. Areas surrounding a location are investigated to determine whether incompatible racial and social groups are present, for the purpose of making a prediction regarding the probability of the location being invaded by such groups. If a neighborhood is to retain stability, it is necessary that properties shall continue to be occupied by the same social and racial classes. A change in social or racial occupancy generally contributes to instability and a decline in values.

938. *Ribbon Developments.* The same principles apply when rating locations on ribbon developments along highways. Such locations tend to attract uses which are often considered, from a residential standpoint, as nuisances. Therefore, the prospect of lessened desirability of such locations for residential use directly affects mortgage risk. However, where the likelihood of such nuisances is remote or where prospective purchasers for residential use are tolerant of present or prospective nuisances, reject ratings of this feature are not warranted.

939. *Nuisances.* Nuisances already present in a neighborhood affect mortgage risk in two ways. The first is the direct effect on the appeal of the neighborhood and this is taken into account when rating the feature, Appeal. The second is the indirect effect on mortgage risk in that the nuisances may accelerate change to a lower grade of occupancy. The latter condition is considered when rating Protection from Adverse Influences. The effect of a nuisance varies according to the type of neighborhood occupants and their degree of tolerance of the condition.

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...ble provision for cultural development. The older residential ... within a city will usually have available more of these facili... than the newer neighborhoods. The centers making for con...ce in living and cultural benefit usually follow rather than ...de the building up of any residential area. However, those new ...ighborhoods which are better served by conveniences will usually ...op and maintain a character more favorable to stability than ... in which they are lacking. Areas occupied by low-income ...ps will ordinarily require easier access to civic, social, and com...ercial centers than the areas occupied by residents of higher in...e levels. The rating should express the sufficiency, quality, and ...ailability of these facilities as related to the requirements of the ...ial class of occupancy, and the effect resulting from comparison ... similar facilities at competitive locations.

951. *Quality and Accessibility of Schools.* When considering the question of schools, distances to the schools should be related to the public or private means of transportation available from the location to the schools. The social class of the parents of children at the school will in many instances have a direct bearing. Thus, physical surroundings of a neighborhood area may be favorable and conducive to enjoyable, pleasant living in its location. However, if the children of people living in such an area are compelled to attend school where the majority or a considerable number of the pupils represent a far lower level of society or an incompatible racial element, the neighborhood under consideration will prove far less stable and desirable than if this condition did not exist. Frequently, upon payment of a fee, children in such an area could attend another school with pupils of their same social class. However, desirability of the neighborhood, when compared with competitive locations, might be adversely affected by the additional expense. In many instances where a school has earned a prestige through the quality of instruction and adequacy of facilities, it will be found that such attributes will be an element in maintaining the desirability of the entire area comprising the school district. In cases where schools are not immediately present, consideration is given to convenience and cost of required transportation.

952. *Quality and Accessibility of Shopping Centers and ...ments.* The central downtown, commercial, financial and the...rical district serves, in some measure, all inhabitants of an Eco...mic Background Area. Therefore, the only consideration given ... this feature to the downtown district is its relative distance ...d availability to competitive locations. Neighborhood shopping ...ters are an essential part of community life, in all except the ...maller towns. The benefits they afford to the occupants of a given

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CONFIDENTIAL

STATE COMMISSION AGAINST DISCRIMINATION

Buffalo Regional Council

Hon. Charles B. Sears
Chairman

730 Prudential Building Buffalo 2, New York

REPORT OF SUB-COMMITTEE ON HOUSING: DISCRIMINATION IN PUBLIC HOUSING IN BUFFALO

Dr. Joseph L. Fink, Chairman
William L. Evans
Frank A. Miceli
Hon. Charles B. Sears, ex-officio
Victor Einach, ex-officio, secretary

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Submitted to Buffalo Regional Council
June 20, 1946

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DISCRIMINATION IN PUBLIC HOUSING IN BUFFALO

INTRODUCTION

This report on housing has been prepared by a sub-committee of the Buffalo Regional Council of the State Commission Against Discrimination. The Commission, on December 19, 1945 at the recommendation of the Council, authorized this committee to engage in a study of discrimination in housing because of race, creed, color or national origin.

The sub-committee after considering the hardships of various minority groups affected by discrimination in public and private housing decided that this report, because of the urgent problem in the Negro community, confine itself to a study of the Negro and public housing. It is our contention that a policy of non-discrimination can form a pattern and policy to be followed in private housing, which, unlike public housing, is not covered by anti-discrimination legislation. We hold to a truth that we believe is self-evident - that discrimination in public housing is un-American.

Commissioner Julian J. Reiss referred the matter to the Commission's general counsel for an opinion to determine the part the Commission and the Buffalo Regional Council could take relative to discrimination in public housing in the Buffalo area. This opinion, Memorandum of Law No. 20, has already been distributed to members of the Council.

We should point out that for the present our report is confined to the city of Buffalo itself inasmuch as only public projects within the city are now under the jurisdiction of the Buffalo Municipal Housing Authority, which in the past, however, had managed public projects in the area outside the city. Correction of alleged discriminatory practices within the city can set a precedent for the towns nearby.

BUFFALO'S NEGRO POPULATION

For years interested Buffalonians have been aware of the congestion and overcrowded living conditions in the Negro community, despite the fact that prior to World War II Negroes constituted only 3% of Buffalo's total population.

Back in 1910 there were 1,773 Negroes in Buffalo. This grew to about 13,000 by 1930 and 17,500 by 1940. The impact of the war brought Negroes to Buffalo from other parts of the nation. It was estimated by the Buffalo Municipal Housing Authority in 1943 that Buffalo's Negro population had reached 25,656. Reliable estimates place today's figure at 30,000 with no indication of any decrease. Indeed, the New York State Law Against Discrimination is an incentive for Negroes to come here. The amazingly disproportionate growth of Buffalo's Negro population was brought out April 11, 1946 in the annual report of the Memorial Center and Urban League which noted that census reports and vital statistics "indicate that 61.7% of Buffalo's increased population for the war years are Negroes."

HOUSING FOR NEGROES IN BUFFALO

Everyone in Buffalo is aware of today's housing difficulties. Yet, Negroes in Buffalo have faced difficulties for many years, not only because of a housing shortage, but because of racial discrimination.

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Back in 1930 when there were about 13,000 Negroes in Buffalo some 90% were obliged to live within a narrow section of the William Street area. The remaining 10% lived in the Cold Springs area. Living conditions then were known to be crowded and sub-standard. Ten years later the same geographical area housed 17,500 Negroes. Today an estimated 30,000 live in essentailly the same physical space with sub-standard living conditions even more aggravated and accentuated.

Some few Negro families have been spreading out to other parts of the city. In general, however, Negroes by necessity have had to stay within the confines of their restricted localities. Even landlords of property on streets which are predominantly colored advertise for "white only" according to complaints brought to the attention of the Buffalo Regional Council and the former Buffalo Committee on Discrimination in Employment.

The old Buffalo Committee found that the influx of Negro workers in the Buffalo community to participate in the industrial war effort placed an extra burden on an already crowded, congested territory. Hardly had Negroes begun to enter war industries when they found themselves unable to find homes.

As for public housing, prior to World War II the only project where Negroes resided was Willert Park, built under the slum clearance program for low income families, taking care of 172 families, all of whom were colored. No Negroes lived in any other local projects until under the War Housing program Negroes moved into an extension to Willert Part (300 additional units) and two conversion projects, George Washington Carver Courts (42 units) and Mary B. Talbert Courts (73 units).

Negroes complained to the Buffalo Committee that these war projects were inadequate because:

1) There was a need beyond the number of units alloted.

2) They were not successful in obtaining housing facilities in war housing projects most easily accessible to plants in which they were employed, one of the main considerations in the assignment of war workers to war housing projects.

The Committee, which went on record for making available war housing projects to all eligible war workers regardless of race, creed, color or national origin, proceeded on the basis that "while housing is not primarily an employment problem it is directly related to employment when the employability of the worker is affected by his opportunities to share in war houses designed and located in war employment areas."

Peace-time finds no change in the design of tenancy in Buffalo's public housing projects which are still either exclusively white or Negro.

BUFFALO MUNICIPAL HOUSING AUTHORITY

In 1934 the Common Council of the city of Buffalo passed a resolution authorizing establishment of a Municipal Housing Authority in compliance with provisions of Chapter 823 of the New York State Laws of 1926, as amended by Chapter 4 of the Laws of 1934.

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The first of the low rent slum clearance public housing projects in Buffalo were the following, built with United States Housing Authority funds and managed by the Buffalo Municipal Housing Authority:

Lakeview - 668 units
Commodore Perry - 772 units
Willert Park - 173 units

Later on, Kenfield (658 units), originally built under P.W.A., was taken over by the Authority as a low rent project. The projects are for low income families who formerly lived in sub-standard housing. Commodore Perry, Lakeview and Kenfield have always had white tenants. Willert Park has always housed Negroes.

Niagara Frontier War Housing, under the management of the Buffalo Municipal Housing Authority included the following:

La Salle Courts (206 units)
Langfield Homes (594 units)
Willert Park Extension (300 units)
Talbert Court (73 units)
Carver Apartments (42 units)

The following war projects outside the city were developed by the Buffalo Authority, although it states it did not manage them:

Ti-o-run-da (1050 units, Cheektowaga)
Sheridan Parkside (1200 units - Town of Tonawanda)

Ti-o-runda was leased to the Cheektowaga Housing Authority as of July 1, 1944. The Town of Tonawanda Housing Authority leased Sheridan Parkside effective July 1, 1945.

No Negroes have ever been assigned to any of the above mentioned projects except the Willert Park Extenstion, Talbert Court and Carver Apartments. Mention should be made that the Willert Extension was operated during the war as war housing. It was developed under a loan contract between the F.P.H.A. and the B.M.H.A. and has reverted to low rent housing for low income occupancy since the end of the war. In order to house temporarily the occupants of the site of the Willert Park Extension, the F.P.H.A., upon recommendation of the B.M.H.A., purchased two vacant industrial buildings with Lanham Act funds and rehabilitated them into apartments, Talbert Court and Carver Apartments. Both were operated as war housing projects after the return of site occupants to the Willert Park Extension.

Relative to the processing of applications for war housing projects the B.M.H.A. states:

"Public war housing has been built expressly for immigrant war workers and their families. The necessity for uniformity in determining eligibility for occupancy led to the establishment of the Niagara Frontier Applications Office, under management of the B.M.H.A., in April, 1943. Through this office passed the tenant applications for all public war housing in the Niagara Frontier developed by F.P.H.A. The processing of applications consisted of determining eligibility only within the framework of the regulations issued by the National Housing Agency.

"The selection of tenants took place in the various individual projects to which the eligible applications were forwarded. The Niagara Frontier Applications Office remained in operation until February 15, 1944, at which time occupancy was sufficiently advanced to discontinue the service for the projects outside the city of Buffalo. During the period of operation, approximately 8,000 War Housing applications were processed through this office."

The most recent data obtained from the Buffalo Municipal Housing Authority are:

1) The low income housing projects, Lakeview, Commodore Perry and Willert Park, are owned and managed by the Buffalo Municipal Housing Authority.

2) Kenfield is managed by the Buffalo Municipal Housing Authority, but is owned by the Federal Public Housing Authority.

3) Langfield, La Salle, Talbert Courts and Carver Courts, which were built as war housing projects, are managed by the Buffalo Municipal Housing Authority, but belong to the federal government under Lanham Act funds. These war projects are still in operation subject to disposition. Incidentally, all projects built under Lanham Act funds pay full taxes. The Talbert and Carver projects were built to supplement the Willert Park housing project. Carver is not in itself good housing. However, the Buffalo Municipal Housing Authority is desirous of acquiring Langfield, La Salle and Talbert.

4) The Buffalo Municipal Housing Authority, in February of 1945, made a request for 5,000 additional units earmarked for a total of thirty-four million dollars, based on large scale neighborhood re-development. The Authority has no sites in mind for these units.

5) Projects in Lackawanna, Cheektowaga and Tonawanda come under local authorities in those respective communities.

SEGREGATION IN PUBLIC HOUSING PROJECTS

Our sub-committee believes that segregation in public housing because of color is discriminatory. According to the Commission's Memorandum of Law No. 20, "--, the Public Housing Law authorizes the Buffalo Municipal Housing Authority to operate public housing projects but prohibits the Authority from discriminating against any applicant for housing because of the applicant's color."
Memorandum of Law No. 20 backs this up by pointing out, "The segregation of Negroes from other occupants of a public housing project by setting aside a section of the development for their exclusive use is an act of discrimination."

That there is segregation of Negroes in Buffalo's public housing projects is evidenced by the fact that Willert Park, Talbert Courts and Carver Apartments are exclusively Negro and that all other projects are occupied only by white persons. The Buffalo Municipal Housing Authority has continued to insist that the pattern of segregation is not a policy but an accident because Negroes applied only at the three projects mentioned.

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In addition to our Buffalo Regional Council, many groups including the Urban League, the National Association for the Advancement of Colored People and the former Buffalo Committee on Discrimination in Employment have studied the problem and at several different times conferred with representatives of the Buffalo Municipal Housing Authority. It is well to make known that some of these groups included members of our own Council sub-committee at the times of conferences with the Authority. Mention should also be made that one of our own sub-committee, Mr. Evans, has made a thorough, documentary study and analysis of housing discrimination, which the National Urban League is publishing. In addition, the Council of Social Agencies at the request of the Buffalo Committee, made a survey on the policy of selecting Negro tenants in representative groups of other cities throughout the country. This study showed that communities varied in their selection of Negro tenants, covering total segregation, segregated areas within a policy of integration and complete integration. As a result of conferences with representatives of the Authority the following points were stressed by it:

1) According to the B.M.H.A. there is no definite policy limiting Willert Park, Talbert Courts and Carver Apartments to Negroes. It is claimed to be accidental that these projects are exclusively Negro and that no Negroes live in other projects.

2) Yet the Authority has also insisted that Buffalo is not ready for complete integration of Negroes with white tenants in its projects.

3) The Authority has claimed that leaders of Buffalo's Negro community did not protest segregation when plans for Willert Park were being made.

4) It is alleged by the Authority that Negroes do not want to live away from the Negro community which centers around Willert Park. An illustration was given that in Carver Apartments there had been a protest from former site occupants of the Willert Park Extension who did not want to move away from their Negro friends. The Carver Project is on the borderline of the largest section of the Negro community.

5) The pattern of segregation of Negroes for Willert Park was instituted by a previous Authority under federal direction, governed by the native pattern of the community which, according to the present Authority, was predominantly Negro.

6) As far as La Salle Courts and Langfield are concerned the Authority explained that under the rules of tenant selection for war housing projects, it would not have been possible to get eligible Negro tenants when the projects were opened and filled early in 1942. It was pointed out that in order to be eligible, the tenant had to be an immigrant war worker who came to Buffalo since December 1, 1941. The Authority representative contended that there were very few, if any Negroes coming to Buffalo at that time from other cities, emphasizing that the integration of Negroes in war industries came about long after that time.

Plaintiffs' Exhibit 229.

7) The Authority felt that on a per capita population basis the Negro is getting a better opportunity in public housing than the white person.

8) In regard to selecting tenants for war housing projects the Authority always said that the individual managers, under the jurisdiction of the Federal Public Housing Administration, made selections and the Authority merely processed applicants. Prior to July 1, 1944 this included Ti-o-runda and prior to July 1, 1945, Sheridan Parkside. Yet the F.P.H.A. when contacted would say that the National Housing Agency was responsible for policy; the N.H.A., in turn, would refer to the B.M.H.A. as the agency responsible for tenant selection policy.

The war has ended and war housing is over. However, the pattern of segregation has not changed. White persons live in all projects except Willert Park, Carver and Talbert - all of which are occupied exclusively by Negroes.

SEGREGATION - PATTERN OR POLICY

The fact that Negroes lived only in Willert Park prior to the war and in none of the other low rent projects in the city presents a question - whether segregation is a pattern or policy. Add to this that when war housing projects came into being no Negroes were found except in the Extension to Willert Park, Carver and Talbert - accentuating the question of pattern or policy.

It has been argued by the Buffalo Municipal Housing Authority that it only has jurisdiction over those projects within the city. However, during the war, the B.M.H.A. acted as an application processing agency for projects in the area mentioned earlier in this report.

The Authority has argued that it had nothing to do with policy of war projects which it said was left to individual managers who served under the jurisdiction of the F.P.H.A. Yet managers of war housing projects attended staff meetings of B.M.H.A. managers of all projects.

The Authority has contended that the pattern of segregation in Buffalo is an accident, pointing out that Negroes apply only at those projects where they (and no whites) live. Negroes, on the other hand tell you one of two things:

a) Either they know where not to apply by past events, or
b) They are discouraged from applying at projects other than Willert, Carver or Talbert.

It has been the experience of the Buffalo Regional Council as well as the old Buffalo Committee that certain events and documentary evidence indicated a policy of segregation rather than mere accidental formation of tenants:

Plaintiffs' Exhibit 229.

1) On January 28, 1944, a Negro woman (Mrs. Louda Gaines, 32 Peckham Street) came to the office of the Buffalo Committee to tell of her experience with the Buffalo Municipal Housing Authority. She and her three children lived doubled up and overcrowded in the William Street area. As an essential war worker at a plant in Kenmore (Chevrolet-Kenmore Avenue plant) she was referred by the employer with an application blank (for Sheridan Parkside which had vacancies) to the Buffalo Municipal Housing Authority's office at 422 Perry Street which was the central office for processing applications. There, she alleges, her color was recorded and she was told there were no vacancies unless she wanted to live in a Lackawanna project, further from her place of work than where she was residing. Apparently even in processing of applications the Authority was following a fixed policy.

2) The B.M.H.A's publication Ten Years of Progress, 1934-1944 on page 12 says of Willert Park Courts, "-- located in the center of life and activity for Buffalo's Negro population." Again, referring to Willert Park Courts, on page 20 it states, "Here is the center of life and activity for Buffalo's Negro population."

3) The Negro Handbook (1944), by Florence Murray, published by Current Reference Publications, on page 84 refers to Willert Park Courts, as of January 31, 1943, as occupied "wholly by Negroes."

4) At the request of the old Buffalo Committee the State Commission on Discrimination in Employment inquired of the National Housing Agency, Federal Public Housing Authority as to housing facilities for Negro war workers in the Buffalo-Niagara area. The following answer of September 14, 1943 (copy in office of Buffalo Regional Council) from John Taylor Egan, director of Region II indicates policy of segregation:

"With reference to your inquiry of September 3, regarding housing facilities to accommodate Negro war workers in the Buffalo-Niagara area, the following is submitted for your information.

There is programmed in this area necessary housing facilities to accommodate the anticipated requirements of Negro war workers. These projects are designed to provide temporary family dwelling units.

In the City of Buffalo, the George W. Carver Apartments and Mary B. Talbert Court will accommodate a total of 116 families. There are to date approximately 42 of these units available for occupancy with the balance to follow shortly. There is also under construction the Willert Park Extension--dwelling units to house 300 families. Initial occupancy is contemplated of approximately 50 units on or about September 15, 1943. At Lackawanna, the Albright Court Project accommodates 200 families, all of which are complete. This development is presently fully occupied but with the anticipated turnover of approximately 150 of these units, it will be made available to Negro war workers.

Plaintiffs' Exhibit 229.

"Within the limits of Niagara Falls, there are two projects under construction which will accommodate a mixed occupancy of war workers. Hyde Park is to contain 600 dwelling units of which approximately 80 units will be completed for occupancy on or before October 1, 1943. Pine Acres is to consist of 1700 units and approximately 700 of these will be made available on or about September 15, 1943.

It is believed that the program will provide an adequate number of units to accommodate the needs of immigrant Negro war workers who shall migrate to this area to serve the war industries.

The foregoing is submitted for your information in the hope that it will serve the purpose desired. If we can be of any further assistance in the matter, please do not hesitate to call upon us."

Our sub-committee's belief is that segregation of Negroes is a policy of the B.M.H.A. characterizing its program from slum clearance, low rent projects to war projects to the present situation. Segregation is still in existance in Buffalo. For the present we are not dealing with the projects in Tonawanda and Cheektowaga. Therefore, in this report we will confine our recommendations to the B.M.H.A. in Buffalo. However, it is important to remember that during the war the B.M.H.A. as a processing agency for war projects in the area had the opportunity to extend and expand an existing pattern of segregation.

RECOMMENDATIONS

In a democracy the general pattern of inter-social community life is one of integration, not segregation. Even the site of Willert Park Courts, although predominantly Negro prior to the project, was occupied by white and Negroes, in some instances living in the same buildings. Whites who wanted to live in Willert Park Courts, some former site occupants with rights to live there, were discriminated against because of their color.

This report has not gone into all the arguments advanced in opposition to mixed housing because our sub-committee feels that much of the opposition has arisen from groups opposed to any kind of public housing. Much opposition to integrated housing might never have been created if Buffalo had not begun to have separate public housing projects for Negroes. Mr. Evans' study, previously referred to, includes a complete account and thorough analysis of the opposition.

If segregation in public housing can be corrected the change can effect the policy of private property in relation to Negro tenants and buyers. As badly as Negroes need housing, under a system of segregation in public housing, they are selected on the basis of Negro applicant compared with Negro applicant rather than applicant compared with all applicants regardless of race color, creed or national origin.

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In accordance with Commissioner Reiss' suggestion, we are submitting this report to you - the Buffalo Regional Council - to be referred by you, if accepted, to the Commission for its consideration as well as authorization to deposit Memorandum of Law No. 20 with the Buffalo Municipal Housing Authority and to invite the Authority to meet with the Council to discuss the matter, as the Council has already recommended.

As a sub-committee we are agreed on the legal procedure which has been outlined for the Buffalo Regional Council. It is our firm conviction that the Council's first effort should be to meet with and discuss the problem with the B.M.H.A. without delay. Further recommendations will depend upon the results of such a meeting.

Respectfully submitted,

Dr. Joseph L. Fink, chairman
William L. Evans
Frank A. Micoli
Hon. Charles B. Sears, ex-officio
Victor Einach, ex-officio, secretary

Plaintiffs' Exhibit 229.

Approved September 30, 1947

TO BE PRESENTED FOR APPROVAL AT NEXT COUNCIL MEETING

Draft of minutes of Joint Meeting of Buffalo Municipal Housing Authority and the Buffalo Regional Council of the State Commission Against Discrimination, held May 13th at 4:00 P. M. at 730 Prudential Building.

Present: Buffalo Municipal Housing Authority

J. Eugene MacMahon, Chairman
Mrs. Edmund B. McKenna, Member
Howard A. Kelly, Executive Secretary
Robert D. Sipprell, Director of Planning
Samuel Blinkoff, Counsel

State Commission Against Discrimination

Julian J. Reiss, Commissioner
Henry Spitz, General Counsel

Buffalo Regional Council of the State Commission Against Discrimination

Ward B. Arbury, Chairman
Norbert Berger
John E. Breat
Mrs. N. A. Cheek, Jr.
William L. Evans
Dr. Joseph L. Fink
E. Marguerite Gane
Very Rev. Sylvester J. Holbel
Martin H. Kuehn
C. G. Maue
Marta Mazurowska
Frank A. Micoli
Mrs. E. Ponafidine
C. G. Travers
Victor Einach, Secretary

Mr. Arbury, who presided, welcomed the representatives of the Buffalo Municipal Housing Authority and expressed appreciation for their cooperation.

He called upon Mr. Einach to review the events leading up to today's meeting. Mr. Einach pointed out that at the request of the Buffalo Regional Council, the State Commission Against Discrimination had empowered the Council to study discrimination in housing, for which the Sub-committee on Housing was appointed. To assist with the study, REPORT OF SUB-COMMITTEE ON HOUSING: DISCRIMINATION IN PUBLIC HOUSING IN BUFFALO, the Commission's Legal Division prepared MEMORANDUM ON LAW NO. 20, summarizing laws pertaining to discrimination in public housing. After the study had been approved by the Council and the Commission, MEMORANDUM ON LAW NO. 20 was submitted to the Buffalo Municipal Housing Authority with an invitation to the Authority to meet with the Council. Mr. Einach noted, that when he met with the Housing Authority at its invitation, the Authority requested REPORT OF SUB-COMMITTEE ON HOUSING: DISCRIMINATION IN PUBLIC HOUSING IN BUFFALO, which was submitted to the Housing Authority with the approval of the Buffalo Council and the State Commission. The Buffalo Council, as a result of its study, he continued, is concerned with whether segregation in public housing in Buffalo is a pattern, practice or policy.

Plaintiffs' Exhibit 229.

Mr. MacMahon stated that the Buffalo Municipal Housing Authority was pleased to meet with the Buffalo Council. He said that the Authority was aware of laws relative to discrimination in public housing and was desirous of complying with such legislation.

Mrs. McKenna discussed the early days of public housing in Buffalo emphasizing the need for housing for Negroes, which was verified by a survey. In speaking of Willert Park, as well as its extension and conversion projects, Carver and Talbert Courts, all of whose tenants are colored, Mrs. McKenna pointed out that the Housing Authority had tried to be "over-fair" so that it might try to serve the community as well as possible.

Mr. MacMahon commented on the acute housing shortage, particularly in the Fifth Ward, in which a large number of Negroes live. According to Mr. MacMahon, there is no question as to Buffalo's inadequate housing for Negroes. It was his feeling that the problem of housing, for whites as well as for Negroes, can only be met through some form of subsidy. He and Mr. Kelly made known that the Buffalo Municipal Housing Authority has pending more than 7,000 applications for housing units, most of which are from veterans. Mr. MacMahon went on to say that more than 20% of the present tenants in local housing projects have become ineligible because of being over the income limits but that they have no place to move. He stressed the fact that the original procedure in the selection of tenants, was to follow the pattern of the community.

Mr. Arbury stated that the ultimate goal of the Buffalo Regional Council and the State Commission Against Discrimination is public housing without discrimination on the basis of race, creed, color or national origin.

In speaking of housing projects in Buffalo, Mr. MacMahon declared that projects, by accident of locality, are predominantly white or predominantly colored.

Commissioner Reiss suggested that attention be directed at this meeting to discrimination in public housing with the goal being the acceptance of all who qualify on the basis of need. It was his recommendation that consideration be given to the following questions:

(1) How to obtain the objective.

(2) How to proceed soundly.

Commissioner Reiss said that the Buffalo Council did not feel it advisable to go into past history, emphasizing that the motives of the Buffalo Municipal Housing Authority were for the best interests of the community. He was of the opinion that the discussion should center in terms of the present and how to reach the ultimate goal. Commissioner Reiss contended that it is important to recognize that there will be resistance and criticism.

Commissioner Reiss asked Mr. MacMahon the following questions:

(1) What are the possibilities of housing developments in the future?

(2) Would it not be wise to consider integration in a locality where a mixed pattern of living exists?

In answer to the above questions, Mr. MacMahon replied:-

(1) There is opposition and a definite resistance to additional public housing in Buffalo.

(2) The practical approach is to integrate where such a pattern already exists. Building should take place where there is substandard housing or in a locality that seems practicable. The Main-Northland area, which is inhabited by whites and Negroes, was suggested.

Mr. MacMahon mentioned that he would also like to see private building contractors expand on an integrated basis.

Mrs. McKenna referred to the section around the waterfront as a possibility because there is also a mixture of the population.

Mr. Arbury felt that the Main-Northland area merited consideration because of the present mixed pattern of residential occupancy.

Mrs. Pohafidine inquired as to whether non-citizens were still barred from public housing projects. Mr. Sipprell replied that the party to the contract must be a citizen but that other members of the family need not be. However, the status of citizenship, he said, was not a requirement in the case of war housing.

In answer to Commissioner Reiss' question as to what a group like the Buffalo Council could do to bring about more public housing, Mr. MacMahon replied that the Council could do an educational job with responsible civic leaders and organizations. Mr. MacMahon and Mr. Sipprell went on to say that further developments required approval of the City Planning Commission and the City Council. Mr. MacMahon dwelt on the fact that the colored people, who are too narrowly confined, are not housed in an adequate manner.

Commissioner Reiss inquired if the City Planning Commission might raise the question of color. Mr. MacMahon did not believe that it would. However, Mr. Sipprell, basing his opinion on past experiences, referred to the possibility of the issue being raised by some district councilmen.

The question of the probability of a project in the Main-Northland area in the near future was raised by Dr. Fink. Mr. MacMahon thought that the matter would be all right with the City Planning Commission. On the other hand, he was skeptical of complete materialization because of the resistance to public housing. He urged that it was essential to sell and interpret the need for public housing to the local administration.

Mr. Kelly informed those present that the Buffalo Municipal Housing Authority has made application for 5,000 future dwelling units at an approximate cost of $34,000,000. if and when federal funds are available.

Mr. Evans questioned the necessity of increasing the City debt limit, which was referred to by Mr. Blinkoff.

Mr. MacMahon made known that the Buffalo Municipal Housing Authority is interested in bringing State Housing projects to Buffalo. He voiced the opinion that four or five of the right people could sell the idea to the City with emphasis on larger housing units to accommodate large families.

In answer to Mr. Evans' question as to whether or not there is any prospect for a public housing development in 1947, Mr. MacMahon answered in the negative, commenting that he did not believe it was possible.

Plaintiffs' Exhibit 229.

Miss Gane asked if the State Commission Against Discrimination and the Buffalo Regional Council might be in a position to help to influence local builders to develop private housing on an integrated basis. However, Mr. MacMahon felt that present economics were against private builders; he did not think they could undertake anything like this without some form of subsidy.

Mr. Arbury again brought up the first step of inaugurating integrated projects in new areas where there might be the least amount of resistance. Mr. Sipprell's thinking was that the only hope for new public housing is with the State unless the Taft E. Wangner Bill is passed.

Considerable discussion centered on steps to be taken to bring about integration in Buffalo's public housing projects which Commission Reiss summarized as follows:

(1) The Buffalo Regional Council should bring together representative citizens of the community with the objective of making State Housing Projects possible for Buffalo. Commissioner Stichman might be invited to act in an advisory or consultive capacity.

(2) Support should be given the Taft E. Wangner Bill.

(N.B.)- The above two steps which would open up the opportunity for new housing in Buffalo should reflect the definite pattern of the acceptance of all eligible persons without regard to race, creed, color or national origin.

(3) When new housing is possible, present projects occupied by Negroes should change the present pattern by the acceptance of white applicants.

(4) Negroes should be accepted and included in those projects which are now occupied by whites.

Mr. MacMahon commented that the entire matter depended on right timing. He emphasized that the four steps were merely in keeping with the laws pertaining to discrimination in housing.

Dr. Fink referred to moral conviction as well as legislation.

Mr. Evans described the successful integration of Negroes in employment in Buffalo stressing that if it can be done in industry and trade unions, it can be done in housing.

The meeting was adjourned at 5:15 P. M.

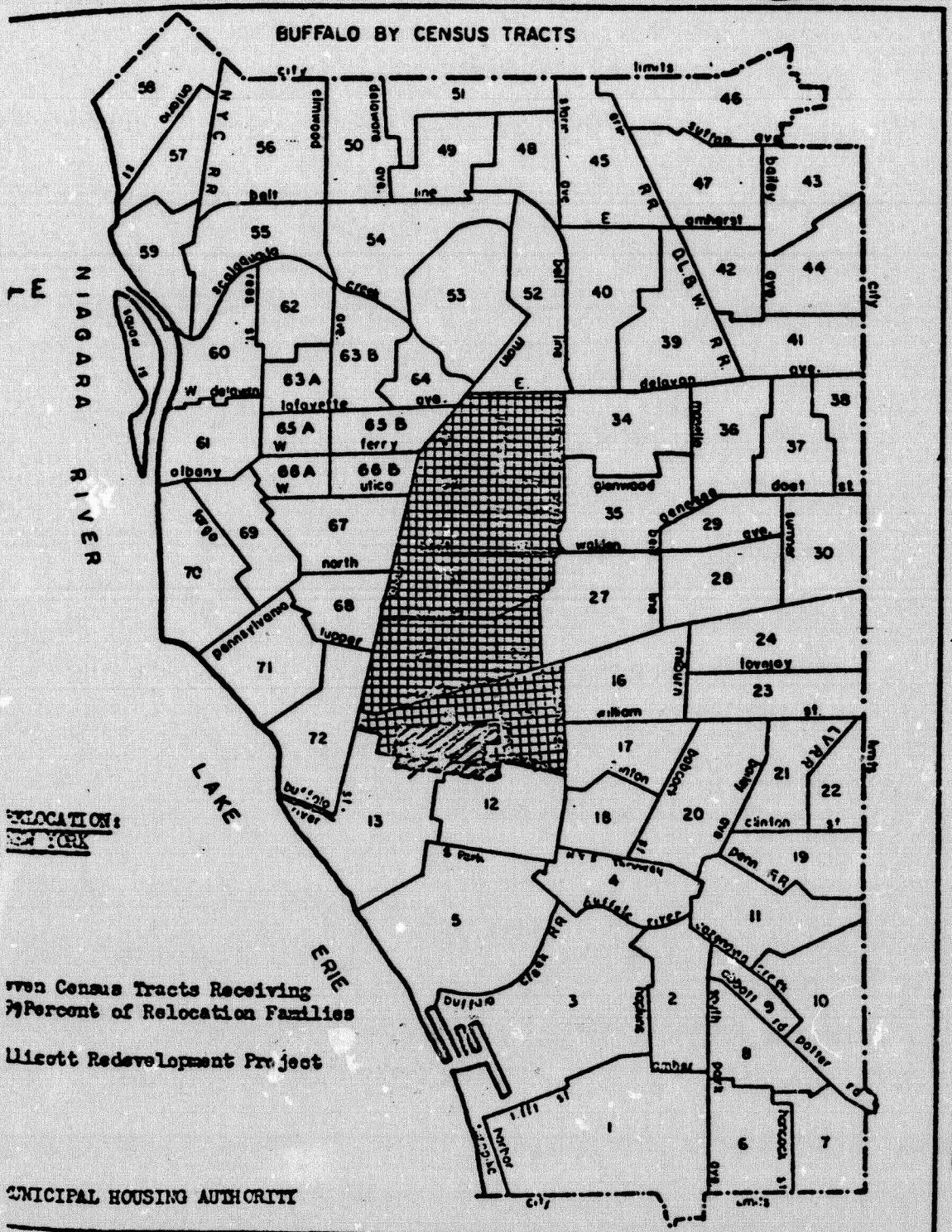
Respectfully submitted,

Victor Finach, Secretary
Buffalo Regional Council

VE/fht.

Plaintiffs' Exhibit 230.

PLAINTIFF'S EXHIBIT 230-4 CV 72-325



Plaintiffs' Exhibit 260.

PROGRAM COMPONENTS

C. HOUSING CHOICE

1. Need

For the great majority of Buffalo's Model Neighborhood Area residents there are three primary barriers to freedom of choice in housing:

(1) Residents of the MNA are generally persons who rent their dwelling units, instead of buying them. Concurrently, rental vacancies are in chronic short supply in every section of the Buffalo Metropolitan area.

(2) MNA family incomes are characteristically low, while the cost of rental units are generally high. Their access to sales properties is even more limited since their ability to repay mortgage loans with prevailing high interest rates is usually questioned.

(3) About 77% of the MNA population is Negro. This is a crucial consideration, in view of Buffalo's traditionally segregated residential patterns.

Fortunately, the City's Department of Urban Renewal has recognized the need for a realistic approach to the problem of rehousing low income, minority group families. This recognition is illustrated on Page 7 of Chapter IV of Buffalo's official Community Renewal Program. This item refers to the persons

Plaintiffs' Exhibit 260.

displaced by clearance action in connection with the recent Ellicott Renewal Project:

"Although at the time there was a sufficient number of adequate housing units available, the relocation program failed to take into account the residential exclusion problem which restricted the movement of non-whites to the Masten and Ellicott Communities. This restriction, though unwritten and unstated, nevertheless, reduced the supply of housing units available to the non-white families displaced by the Ellicott Project to an unsatisfactory level. Thus, relocation of the Ellicott residents was accomplished by increasing the density of the remainder of the Ellicott Community and the lower Masten area mainly by virtue of illegal conversions of single and two, multi-family structures and by the doubling up of families in existing units. The impaction of these two areas in turn led to the speeding up of the processes of blight formation in the remainder of the Ellicott and Masten areas."

2. Present Effort:

(1) A volunteer organization called "Housing Opportunities Made Equal" (HOME) is assisting in formation of a non-profit corporation to develop moderate-cost housing.

(2) A comprehensive code-enforcement program is underway in the area.

BEST COPY AVAILABLE

Plaintiffs' Exhibit 260.

(3) The Mayor's Citizens Advisory Committee on Community Improvement has an active sub-committee on minority housing. This sub-committee will direct its efforts towards achieving open housing.

Present efforts to increase freedom of choice in housing opportunities throughout the City of Buffalo are generally limited to increasing the supply of low-income rental and sales units. However, due in some part to New York State's strong Anti-discrimination Law, Negro exclusion from sales housing has diminished perceptibly in recent years. However, State-enforced legislation exempts almost 90% of the available rental housing in Buffalo, and there are no locally enforced legal sanctions against discriminatory practices.

3. Goals

a. To remove all barriers to unrestricted, free and equal access to all Buffalo area housing, either currently existing on the market, or to be built.

b. To promote and actively provide opportunities for both white and Negro residents of the metropolitan-wide community to become positively committed in principle and in deed to the goal of an open society.

c. To provide a structure through which the Model Neighborhood residents may themselves work toward enhancing their access to the total city-wide housing supply.

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Plaintiffs' Exhibit 260.

4. Program Approach

Program approaches toward achieving the aforestated goals will include the following:

a. The provision of total-coverage fair housing legislation together with machineryfor its vigorous enforcement

b. The goal of promoting active, general community support for open housing will be achieved through a comprehensive educational program involving the entire area's white and Negro communities. This will include: organization of neighborhood stabilization projects; mobilization of established residents to assist in mitigating tensions which develop from an influx of Negro newcomers; and the development of a professionally staffed housing information service. The information service will provide guidance and information for Model Neighborhood residents who may need such assistance to enable them to compete for housing in the metropolitan-wide open market.

c. Both positive and negative forces in the communitywill be considered in working towards the goal of creating an effective vehicle for participation in assuring equal housing opportunities. The City Demonstration Agency will:

(1) Mobilize a coalition of power elements in support of positive-action, fair housing programs, and (2) Develop the sense of individual worth, and of "community," among the residents of the Model Neighborhoods Area.

Plaintiffs' Exhibit 260.

5. Work Program

The experiences of many cities, including the City of Buffalo, serve to document the unqualified need for adequately enforced fair housing legislation to undergird any efforts to make all housing equally accessible to minority groups. As was indicated under Item Number 2, the City of Buffalo lacks this basic instrument, since State and Federal laws are not applicable to most rental vacancies in this city of predominantly owner-occupied rental units. Work will therefore be directed towards:

(1) The development of a local ordinance to implement compliance with existing State laws against housing discrimination. The City Demonstration Agency will work through appropriate governmental agencies to formulate legislation which is applicable alike to brokers, builders, mortgage lenders and owners. Documented explanations of the need for such legislation will be prepared and presented to both Executive and Legislative branches of County and City government.

(2) A thorough study to determine the most practical method of employing city administrative machinery and powers towards vigorous enforcement of the ordinance. This will include exploration of a possible tie-in with the issuance of city building permits and/or real estate brokers licenses.

(3) The possibility of providing for Human Relations Department "posting" of premises found in violation of such ordinances will also

be investigated. In this connection, the responsibilities, personnel, and budget of the City's Commission On Human Relations will be evaluated to recommend increased resources and revisions required to assure vigorous enforcement of any local fair housing legislation. The same evaluation will be undertaken to also provide for implementation of the aforementioned educational program.

(4) The housing information service will be designed to provide: extensive and specific information on available housing, metropolitan-wide referral services with automatic follow-through, consultative services for home buyers, sellers, or renters, possible testing for evidence ofdiscriminatory practices, identifying and cooperating with sympathetic real estate brokers, identifying and making contacts with friendly persons and organizations located in receiving areas, etc.

(5) Experimentation with the provision of rent supplements for a screened group of needy MNA residents will be studied.

(6) An evaluation will also be made of the appended proposal requesting initial funding for a Model Neighborhoods Area resident self-help corporation.

The "We Ourselves" proposal (see Citizen Proposal 2) will serve to provide opportunities for the target areas generally low-income, inexperienced residents to play an active, meaningful part in controlling their own ability to take advantage of

Plaintiffs' Exhibit 260.

existing housing opportunities. A study will be made of the feasibility of this proposal to develop a neighborhood-based non-profit corporation with capacity to vary interest rates on mortgages, based upon the applicant's ability to pay, with capital accumulated through the sale of shares in the corporation.

A grant will be required to perform an intensive analysis of the existing and potential resources required to program the activities set forth in this component.

Study to start first month; complete fourth month; cost $10,000

Plaintiffs' Exhibits 263 and 264. (263+264) (118/119)

Preliminary Compliance Review of the Buffalo Public School District Review

I. POSSIBLE TITLE VI VIOLATIONS

A. Board of Education policy according to a parent's preference for the assignment to special education schools has permitted white students who would normally attend school no. 50 to escape to other schools and thus keep school no. 50 all black. (p 291-297)

B. The standard of effort applied in the testing, placement and reevaluation of special education students at all black school no. 50 is considerably less than the effort applied at a racially mixed school (no. 44). (p298-303)

C. The providing of some special foreign languages at all of the academic high schools except East High School (99% black) has resulted in numerous white students who reside in the East zone attending other academic high schools. (p 545-555)

D. The existence of optional attendance zones in four cases has contributed to further racial segregation (p559)

by either (1) allowing white students to escape a black school in favor of a white school, or (2) not including an all black populated optional zone in the attendance area of the predominantly white school.

E. A boundary change between two elementary schools (nos. 9 and 62) in 1963 resulted in 105 students (only 4 or 5 were black) being added that year to the predominantly white school due to the change. The new boundary divides one area which is almost all white from one which is rapidly increasing in black population.

F. Woodlawn Junior High School opened in 1964 as an all black school despite numerous alternate zoning proposals which would have made it a racially mixed school. The school has remained all black continually since 1964.

(p 644-647

Plaintiffs' Exhibits 263 and 264.

Preliminary Compliance Review of the Buffalo Public School District Review

G. The loose assignment procedure in two elementary schools (nos. 4 and 34) which share the same general boundaries (one is an annex to the other) has contributed to one school being 90% white and the other only 16% white. Many students bypass the nearer school, in which their race is a minority, in favor of the school in which their race is a majority. (p 584-59)

H. St. Augustine Center, a school for pregnant teenagers, has been continuously all black, thus creating the strong implication that the district handles the situation involving a pregnant white student in a different manner. (p 674-675)

I. The current grade structure of schools contributes to segregation of junior high age students. Twenty-four (24) of the twenty-eight (28) K-8 schools are predominantly white. Three of the four junior high - middle schools are predominantly black because most of the white students attend K-8 schools and thus do not attend junior high - middle schools. (p 9 12-15)

Plaintiffs' Exhibits 263 and 264.

4

Compliance Review of the Buffalo Public School District Review

J. School #16 which has a Black enrollment of 91.7% is located in a predominantly white residential area. (P558a)

K. At virtually all levels, minority teachers are assigned in significantly higher proportion to predominantly black schools than to predominantly white schools. (P690-707)

L. There are only four black principals, seven black assistant principals, and one black acting chief officer in the system and all are assigned to schools which are at least 98% black. (P711-712)

M. Although the school district has initiated corrective action it should be noted that the admissions practices in most of the vocational high schools were such that they tended to keep minority enrollments very low.

Plaintiff's Exhibit 265.

Honorable Gould B. Hyndist
Commissioner of Education
State Education Department
Albany, New York 12201

October 3, 1973

Dear Joe:

It is many months since we have corresponded, and many months since Tom Sheldon was here to meet with the Board.

When he was here I expressed my disappointment in the lack of progress from your office with regard to desegregation of the Buffalo Public Schools. Surely there have been many bridges reached for jumping since your famous statement in January of 1972.

I do not mean to be too critical. I understand full well the complexities and the practical difficulties which apply here. Frankly, now that the matter has gone this long, I would not particularly want to see it arise again before we have the vote on the miserable elected school board proposal which will be on the ballot here in Buffalo next month.

However, it looks to me as if we are on the verge of another brush with the integration issue in general. This time in connection with HEW's demand that we integrate staff in a way in which they certainly do not intend for us to integrate pupils.

We, of course, have litigation now pending against us. I hope it will be successful, but I do not know how long it will take, and I do not believe that it is necessary for your office to continue delaying the matter pending the time when some judge may resolve it for us.

The Denver case of last term certainly does not hurt our position, and the Detroit case probably will not be heard until late in the new term of the Court.

Plaintiffs' Exhibit 265.

Honorable Ewald B. Nyquist, Commissioner October 3, 1973
Page 2

All in all, I suppose my feeling is one of continued frustration, but not yet quite complete frustration. After all, Joe, you [illegible] much of the turmoil in Buffalo, [illegible]. That turmoil has, I believe, produced the elected school proposal. That, in turn, has produced a diversion of attention from the real issues, racial and otherwise, with which we should be dealing.

Most respectfully, I believe that you have a responsibility to persons that you have begun here in Buffalo. I do not believe that it would be right for you to wait until a new, elected school board (if there is to be such) is seated before acting. That Board will have enough headaches, and confusion, without thunderbolts from Albany. The present board, poor as it may be, can better deal with these.

I have too much respect and high regard for you to believe that you are the boy who threw the brick and ran. The problem will not go away and time will only "dull our cutting edge" to quote our friend Churchill.

I look forward to hearing from you soon, and would be happy to discuss these matters with you personally if that would be useful.

With very best wishes.

Sincerely,

Arnold F. Gardner

AFG/jn

cc: Dr. Joseph Manch (personal)

Plaintiffs' Exhibit 266.

121

THE UNIVERSITY OF THE STATE OF NEW YORK
THE STATE EDUCATION DEPARTMENT
OFFICE OF THE PRESIDENT OF THE UNIVERSITY
AND COMMISSIONER OF EDUCATION
ALBANY, NEW YORK 12224

Thursday
October 11
19 73

Mr. Arnold B. Gardner
Kavinoky, Cook, Hepp, Sandler
Gardner and Wisbaum
Attorneys at Law
120 Delaware Avenue
Buffalo, New York 14202

Dear Arnold:

Thank you for your letter of October 3, 1973 which was just received in our office yesterday.

First of all, let me thank you for your confidence in recognizing that I had no idea of dropping this matter after having put so much serious effort into bringing it to the present stage. However time consuming the effort was, we still believe that the attempt to secure cooperation on the part of the Buffalo Board of Education will stand us in good stead, if not through achieving immediate positive integration movement, certainly at any later stage involving possible legal steps.

I was as disappointed as you at our inability to get the Board to consider a reasonable approach to integrating the schools. In my opinion there are several steps included in the draft plan which could have been taken as first stages and which provided good platforms for the Board and citizenry to move forward with confidence.

After he had assumed his new office, Regent Genrich requested that the Commissioner allow him to see if he could not somehow promote a better atmosphere toward some possible integration steps by the Buffalo Board of Education. By this time you know that Mr. Genrich and Tom Sheldon met with Board President Gajewski who was asked to

Plaintiffs' Exhibit 266.

arrange a meeting with your full Board, hopefully devoid of publicity and the attendant public scrutiny which make effective discussions difficult. While I am hopeful that such a meeting will be arranged and will be productive, our earlier experiences do not leave me overly optimistic.

Although I know you realize that I am not at liberty to indicate what action I will take in the event we are not able to resolve a cooperative direction, I do want to assure you that an appropriate early response will be forthcoming should such be necessary.

Faithfully yours,

Ewald B. Nyquist

1677

Plaintiffs' Exhibit 267.

BOARD OF EDUCATION
City Hall
Buffalo, New York – 14202

JOSEPH MANCH
Superintendent of Schools

HENRY J. GDULA
Secretary to the Board

BOARD MEMBERS
JOSEPH E. MURPHY, President
DR. GEORGE E. BLACKMAN, Vice President
MRS. CAROL E. WILLIAMS
ARNOLD B. GARDNER
CHARLES G. BLAINE
DR. MATT A. GAJEWSKI
Anthony F. Tauriello

January 10, 1973

122

Dr. Thomas D. Sheldon
Deputy Commissioner
The University of the State of New York
The State Education Department
Albany, New York 12224

Dear Dr. Sheldon:

In your letter to me dated January 5, 1973, you indicated your willingness to meet with our Board for the purpose of discussing Commissioner Nyquists' proposal with respect to integrating the Buffalo City Schools.

Be assured we would be pleased to have you visit here. However, if your discussion with us should in any way involve forced bussing then, in view of the attitudes of the majority of the Board, there would be no point to such a discussion.

Very truly yours,

Joseph E. Murphy

Joseph E. Murphy
President

Plaintiffs' Exhibit 268.

123

xxxxxx

January 13, 1973

Dr. Thomas D. Sheldon
Deputy Commissioner
The University of the State of New York
The State Education Department
Albany, New York 12224

Dear Mr. Sheldon:

I have received a copy of Mr. Murphy's letter to you dated January 10, 1973, in response to your January 5 letter to him as President of the Buffalo Board of Education.

I feel compelled to apologize to you, and to your office, for the attitudes expressed at our Board meeting of January 10. As you know, by a 4 - 3 vote you were invited to stay out of town.

Mr. Murphy's letter is phrased in terms of bussing, but to be realistic what he is saying to you is that the Board majority, as presently constituted, has no interest in talking about school desegregation regardless of the manner in which it might be accomplished.

I believe that it is futile for you to continue your efforts to deal with our Board in a spirit of conciliation or reconciliation if you will.

I regret that this is the case, but it is undoubtedly the present fact. Whatever action you may contemplate should proceed without the unrealistic anticipation of a change in local attitudes at this time.

Sincerely yours,

Arnold B. Gardner

ABG/kls

Plaintiffs' Exhibit 269.

(124)

THE UNIVERSITY OF THE STATE OF NEW YORK
THE STATE EDUCATION DEPARTMENT
ALBANY, NEW YORK 12224

...D. SHELDON
...COMMISSIONER FOR
...MENTARY, SECONDARY
CONTINUING EDUCATION

PLAINTIFF'S EXHIBIT 269 Civ-72-329

January 17, 1973

Mr. Arnold B. Gardner
Board Of Education
City Hall
Buffalo, New York 14202

Dear Mr. Gardner:

Thank you very much for your kind letter of January 13, 1973. Just previous to receiving your letter I had mailed a response to Board President Murphy, in which I once again tried to explain that we were attempting to obtain some reactions to the draft plan, and that my willingness to visit with your board and/or staff was simply a suggestion as to how we might effect that better understanding.

I am sure you are quite right and that we have practically exhausted our resources with respect to this matter. At any rate, when I receive what will probably be a final reply to this request I am obligated to make a recommendation to the Commissioner. As you can easily ascertain there aren't many choices as to what recommendations can be suggested.

I am truly sorry that we haven't been able to do something more constructive in a cooperative mode but fully understand the mood of the day and problems associated with it. Nevertheless, in the long run all these things will lead to an eventual better educational program for all children.

Thank you very much for your continued support.

Sincerely yours,

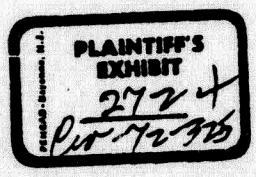
Thomas D. Sheldon

Thomas D. Sheldon

TDS:mkh

Plaintiffs' Exhibit 272.

36



Wednesday
June 14
19 67

Dr. Matt J. Ciejewski
President
Board of Education
City Hall
Buffalo, New York 14202

Re: Matter of the Appeal of Yaley Dixon et al. v.
Board of Education of the City of Buffalo

Dear Dr. Ciejewski:

The Progress Report on Accelerating Quality into Integration submitted to the Commissioner by the Buffalo City School District has been reviewed. In summary it says:

-- Four (4) schools in the inner city, 2,600 students are being transferred to receiving schools in the periphery of the city.

-- The voluntary transfer plan has been extended to include inner city pupils in kindergarten through grade 6.

-- An institute on problems incident to understanding desegregation has been conducted for administrators of both sending and receiving schools.

-- It is planned that the west district [illegible] plan open or [illegible] integrate a school for grades 5-6 in September of 1968.

-- Funds for the preliminary planning for the middle schools for 25,000 students in grades 5-6 and three senior high schools for 1968, including [illegible] relative studies of location, transportation, site cost, utility, long range projection and metropolitan educational needs.

-- Application to be made with regard to plans of Model Cities [illegible] has been [illegible] by the Buffalo City Council.

Plaintiffs' Exhibit 272.

Dr. [illegible] [illegible] June [illegible]

-- Pairing opened an [illegible] racially balanced.

-- The Board of Education plan to use relocatable classrooms to further the integration program was delayed by action of the Common Council and the courts.

-- Steps have been taken to improve recruitment and procedure procedures for personnel.

-- Extensive steps have been taken to improve teacher preparation for urban schools.

-- Project Step at Public School 81 is producing improvement in reading and mathematics in a racially balanced school.

-- Basic classes in grades 3-7 have been discontinued and pupils regrouped into regular classes.

I am informed that, since you submitted your report, action in the Appellate Division in Rochester has upset the amendment by the Common Council to section 701 of Chapter XII of the Buffalo City Ordinances. Thus, the legal bar to your proceeding with the plan to erect relocatable buildings has been removed.

Further, I understand that you have requested a sum of $400,000 for the planning of the middle schools to be included in the City's capital improvement plan for 1969-70.

The difficulties you described in your report apparently have slowed down the forward thrust of the Buffalo Public Schools in regard to achieving quality integrated education. Your report and other information submitted in the regular reporting system to the State Education Department show that 2,963 students were transferred from the core area schools in the periphery in the fall of 1968. Unfortunately during the past two years, while the white enrollment in the Buffalo schools was decreasing by 2,[illegible] (4 percent of white), the Negro enrollment was increasing by 1,642 pupils (4 percent of Negroes). Clearly, unless there is an acceleration in the implementation of plans for achieving quality integrated education in the Buffalo School System, the present trend may become irreversible. Despite the progress described in the report, the motivation which prompted an appeal to the Commissioner of Education by the parents of Negro children still exist.

Plaintiffs' Exhibit 272.

June 13, 1968

[illegible] of 22 elementary schools with Negro students varying [illegible] to 24 percent in 1966-67, constitutes a reduction of three percent by [illegible] while [illegible] a reduction of less than one percent; while six [illegible] varying from 5.7 to 22.7 percent. Sixteen of the 22 schools [illegible] percent Negro in 1966-67; the same schools had over 90 percent Negro students in 1966-67.

Another group of 10 elementary schools had Negro students varying from none to 15 percent in 1966-67. By 1966-67 the percentages ranged from none to 28 percent.

In the 20 elementary schools designated to receive inner city children, the percent of Negro students varies from zero to 16.9 percent in 1966-67; by 1967-68 the range was from 1.3 to 37.3 percent. School by school percentage changes in 1966-67 range from a 4.4 percent loss to a 23.1 percent increase; half of the schools (7) showed increases from 1 to 5 percent; nine schools from 5 to 10 percent.

You and the Board deserve strong credit for the steps you have taken to prepare principals, teachers and other staff members to carry out your plans for quality integrated education. However, it is necessary to place more emphasis upon the actual mingling of the students so that each may benefit by contacts with other children of varying backgrounds. In this connection it should be pointed out that Chapter 642 of the Laws of 1967 does not prohibit the assignment of pupils by the appointed board for the purpose of achieving equality of educational opportunity through the correction of racial imbalance if such assignment is made in the manner requested or authorized by the parents or guardian of each pupil so assigned. I understand that you are proceeding on this basis.

The beneficial effects of such mingling are shown in "A Study of the Educational Effect of Integration" released by your own Division of Curriculum Evaluation and Development, January 1967. In summary it says:

"[illegible]

"1. Negro pupils integrated into classes with white pupils make greater gains in academic achievement than do pupils who remain in segregated schools.

"2. White pupils do not suffer losses in academic achievement as a result of integration.

Plaintiffs' Exhibit 272.

Dr. [illegible] June 12, 1967

* Negro pupils under the present plan when they are in integrated classes where the number of Negro pupils is 50 percent or under.

* Principals and teachers in schools receiving Negro pupils believe that the integration program has demonstrated positive educational results.

* Parents of Negro and white pupils involved in the integration program believe that it is educationally sound.

* Negro and white pupils involved in the integration program believe that it is a good idea."

In the light of the foregoing considerations, I ask that you let me know your plans for forward action in the 1967-70 school year. What actions are you currently taking which will achieve greater integration in the schools in the fall of 1967? May I have your reply within one month?

Faithfully yours,

David B. Nyquist
Acting Commissioner of Education

cc: Matthew Perry, Esquire
20 West 40th Street
New York, New York 10018

Herman Schwartz, Esquire
State University of New York at Buffalo
77 West Eagle Street
Buffalo, New York 14202

Joseph Wanek, Superintendent of Schools

bcc: Chancellor McGovern
Regent Millard
Regent Rubin
Messrs. Johnson, Nordos, Steen, Wooliett

Plaintiffs' Exhibit 273.

PLAINTIFF'S EXHIBIT 273 X Civ-72-325

34

CITY OF BUFFALO

DEPARTMENT OF LAW

June 4, 1969

RECEIVED JUN 20 1969

Dr. Joseph Manch
Superintendent of Schools
City Hall
Buffalo, New York

Re: Effect of Amendment to Section 3201 of Education Law on the Board's Integration Program

Dear Dr. Manch:

A recent amendment to Section 3201 of the Education Law affects the power of the Board of Education - the members of which are holding office by appointment. The applicable part of Subdivision 2 of this section reads:

> "2. Except with the express approval of a board of education having jurisdiction, a majority of the members of such board having been elected, no student shall be assigned or compelled to attend any school on account of race, creed, color or national origin, or for the purpose of achieving equality in attendance or increased attendance or reduced attendance, at any school, of persons of one or more particular races, creeds, colors, or national origins; and no school district, school zone or attendance unit, by whatever name known, shall be established, reorganized or maintained for any such purpose, provided that nothing contained in this section shall prevent the assignment of a pupil in the manner requested or authorized by his parents or guardian, * * * ."

You have asked my opinion as to the effect of this amendment upon the Board's program for providing integrated education in the public schools. In particular, you refer to the Board's plan for middle schools adopted on January 31, 1968, which states in part:

Plaintiffs' Exhibit 273.

"Middle schools should be located in the peripheral areas of the city and districted so that two-thirds of their pupils live within the immediate vicinity. The other third of their enrollment would be children transported from the inner-city. * * * ."

At the outset, I point out to you that this opinion is based solely upon the amendment as written, and I am not passing upon the constitutionality of such amendment.

It is apparent that the middle school plan was intended to carry out the mandates of the State Commissioner of Education in the Yerby-Dixon case.

Assuming the validity of the recent amendment, the carrying out of the proposed plan can and will collide with the law, if the acts of your Board are deemed, directly or indirectly, to be compulsory, because the intent and purpose of this amendment was to prohibit forced attendance, by busing or otherwise, of pupils at schools outside of their normal school district solely for the purpose of creating racial balance in a school system. The section does not prohibit integration as such, but it does restrict the compulsory assignment of students outside their school district for such purpose.

You may, however, properly assign such pupils from outside the school district to the middle schools and provide for their transportation on condition:

(a) Their parents or guardians voluntarily sign a consent and request that their children be so assigned outside of their normal district to the particular middle school; and

(b) Class facilities are available.

I can visualize an attack on the policy of the Board in selecting feeder schools from which children shall be assigned to the middle school on the ground that to so restrict is, in fact, an effort to keep classrooms available for integration purposes. However, I repeat, under the law this, in and of

Plaintiffs' Exhibit 273.

itself, is not found to be objectionable so long as the assignment thereto meets the voluntariness of the Education Law. It is crystal clear that the acts to be avoided are the "assignment" or "compulsion of students to attend" a particular school, within the orbit of the section, outside of the established school district.

At a recent meeting of the Board, I expressed concern as to the manner by which the request or authorization of the parents or guardians of the students was to be exercised by your Board. As you know, I approved the form of the request or authorization prepared by the personnel of the School staff but suggested restraints in active solicitation of students for assignment.

In my judgment, it is reasonable and not violative of the purpose and intent of the law if the Board would proceed as follows:

1. Furnish schools with a supply of the request or authorization cards.

2. Circulate copies of the law to the students for the consideration of their parents and guardians.

3. Post copies of the law on the bulletin boards of the schools to be affected.

4. Explain the time limit within which the forms must be returned.

5. Inform students that the request or assignment is subject to approval by the school authorities.

Nothing in this opinion shall be construed as affecting the right of the Board of Education to assign students living within the school district as established by the Board of Education.

Yours very truly,

ANTHONY MANGUSO
Corporation Counsel

AM:fs

Plaintiffs' Exhibit 274.

JOSEPH MANCH
Superintendent of Schools

ISABELLE VERVAEKE
Assistant Secretary

BOARD OF EDUCATION
City Hall
Buffalo, New York -- 14202

BOARD MEMBERS
DR. MATT A. GAJEWSKI, *President*
DR. GEORGE E. BLACKMAN, *Vice President*
GEORGE F. GOODYEAR
JOSEPH E. MURPHY
ANTHONY J. NITKOWSKI
CARMELO A. PARLATO
ARNOLD B. GARDNER

July 14, 1969

RECEIVED
JUL 17 1969
DEPUTY COMM'R.
OF EDUCATION

RECEIVED
JUL 24 1969
[illegible] (BUREAU)

Dr. Ewald B. Nyquist
Acting Commissioner of Education
The State Education Department
Albany, New York 12224

Dear Dr. Nyquist:

In compliance with your letter of June 18, 1969, the attached report is submitted for your approval. The report contains plans for achieving greater integration in the schools in the 1969-70 school year.

On July 9, 1969, the Board of Education approved the following motion:

> That the Superintendent be instructed to explore ways and means of cooperating with suburban school districts around the city in order to achieve racial balance and to report to the Board.

The Superintendent indicated that he would make a study of this matter as instructed by the Board and that he would report back to the Board at the earliest opportunity.

We trust that you will find this report of the plans of the Board of Education to be satisfactory. Copies of this report have been forwarded to the parties in the appeal.

Yours sincerely,

Matt A. Gajewski

Dr. Matt A. Gajewski, President
Board of Education

Joseph Manch

Joseph Manch
Superintendent of Schools

Attch.

Plaintiffs' Exhibit 274.

A REPORT ON PLANS FOR ACCELERATING QUALITY INTEGRATED EDUCATION IN 1969-70

This report is prepared in response to a request from acting Commissioner of Education, Ewald B. Nyquist.

The following plans will achieve greater integration in the schools during the school year 1969-70:

1. West Hertel Middle School will open as an integrated grades 5-8 middle school in September 1969. Following the Board of Education policy of January, 1968, West Hertel Middle School will have a total enrollment of 70% white pupils and 30% black pupils transferred from the inner-city.

2. The present busing program will be continued and expanded during 1969-70. During the school year 1968-69 some 2,043 inner-city pupils were bussed to 38 receiving schools in peripheral sections of the city. The Office of Integration has secured voluntary request and authorization cards from parents so that a large majority of these pupils will continue in the integration program.

An additional 450 authorization cards have been obtained from parents so that this number of new pupils will be transferred from 5 inner-city to receiving schools in September 1969.

Staff members from the Office of Integration met with parents in each of the 5 sending schools during the month of June to distribute authorization cards, copies of Section 3201 of the Education Law, and

Plaintiffs' Exhibit 274.

to explain the procedures required by the new law. Representatives from the NAACP have sent letters to the parents who did not sign authorization cards explaining that their child could not be transferred unless a signed authorization card is received by the Office of Integration before September.

3. As a result of the decision of the Appellate Division permitting the installation of relocatable classrooms, The Board of Education is proceeding with plans to install 18 relocatable classrooms at 10 receiving schools during the school year 1969-70. The use of relocatable classrooms will permit the transfer of 300 inner-city pupils from Clinton and Woodlawn Junior High Schools to intregrated schools in peripheral sections of the city.

With the three programs described above, approximately 2,600 inner-city pupils will be transferred to receiving schools to achieve greater integration during the school year 1969-70.

Submitted by:

Dr. Joseph Manch
Superintendent of Schools

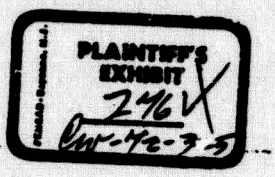
Prepared by:

Donald S. Laing
Director of School Integration

Board Meeting
July 9, 1969

Plaintiffs' Exhibit 276.

38



130

Friday
August 1
19 69

Dr. Matt A. Gajewski
President
Board of Education
201 City Hall
Buffalo, New York 14202

Re: Matter of the Appeal of Vicky Dixon et al. v.
Board of Education of the City of Buffalo

Dear Dr. Gajewski:

Your response of July 14 to my letter of June 18 is appreciated.

It is apparent from the report that there is forward movement in several respects:

1. West Hertel Middle School will open on an integrated basis in September 1969.

2. Eighteen relocatable classrooms will permit 300 inner-city pupils from Clinton and Woodlawn Junior High Schools to attend integrated schools in peripheral sections of the City.

3. The number of children expected to transfer from inner-city to peripheral schools in 1969-70 is 2,600 compared with 2,048 in 1968-69.

4. The Superintendent is to explore ways and means of negotiating with adjacent suburban districts to promote racial balance and to report to the Board.

I ask that you make two reports during the 1969-70 school year, one by December 15, 1969, the other by May 15, 1970.

Faithfully yours,

Harold D. Nyquist
Acting Commissioner of Education

cc: [illegible]
[illegible]

Plaintiffs' Exhibit 277.

THE UNIVERSITY OF THE STATE OF NEW YORK
THE STATE EDUCATION DEPARTMENT
OFFICE OF THE PRESIDENT OF THE UNIVERSITY
AND COMMISSIONER OF EDUCATION
ALBANY, NEW YORK 12224

November 8, 1972

Mr. Joseph E. Murphy
President
Buffalo Board of Education
Room 712 - City Hall
Buffalo, New York 14202

Dear Mr. Murphy:

Earlier this year I met with your Board of Education and staff to discuss the general problems associated with integrating the Buffalo city schools. At the conclusion of our meeting it was agreed that members of your staff would cooperate with representatives of the State Education Department in supplying data, information and advice which might help form the basis for an integration plan. Our staff did receive such cooperation, and you will note that they have drawn heavily on work done earlier in Buffalo.

It was also agreed at our meeting and at a subsequent session with our representatives, that any proposals considered would be shared with your Board and staff for their comments and advices. To that end I forward herewith draft proposals which should serve as an effective vehicle to elicit specific suggestions from you, your colleagues and interested citizens. Using this draft proposal and your reactions and suggestions as a base, I am confident we can cooperatively develop a final plan which will effectively integrate the Buffalo Public Schools.

I would like to ask that you arrange for whatever study you deem appropriate and provide me with reactions and recommendations by January 3, 1973. We will then review your comments and arrange for further consultation with your Board and/or designated staff.

With personal regards, I am

Faithfully yours,

EWALD B. NYQUIST

Plaintiffs' Exhibit 279.

Buffalo Public Schools
Buffalo, New York

Pupil Personnel Services

133

TRANSFER REQUEST

Date 5/20/71

Name of Child Sharon Dukes Age 14 yrs.

Address 171 Hamlin Telephone 884-85 18

Name of Parent or Guardian Mrs. Curtis L. Dukes

Last School Attended St. Francis De Sales Grade 9

Transfer requested to Bennett - Language

REASON FOR REQUEST: Lives in Woodbine Jr. Dist. for 9th gr. (on Lafayette Dist.) Father wants girl to go to Bennett as it is more convenient for ~~him~~ the girl to go to Bennett.

App 87% average.

Russian language

Need 90 term average

Granted ____ Referred to ____

Denied ✓ By E.L.B. Date 5/20/71

Plaintiffs' Exhibit 279.

NAME Dukes Sharon L,

Year 71-72 Homeroom 133, Year 72-73 Homeroom _____

	1st Term	Exam	Final	Units
English 1	77	65	76	1
Wo. Regions	81	43	74	1st F
Phys. Science	76	68	77	1
Algebra	73	13	57	1 F
Latin I	89	65	75	1

	1st Term	Exam	Final	Units
English II	87			1
Wo. History	70			1
Bio & Lab	62			1
Math 10	61			1
Latin II	81			1
Health				1/2
				10 1/2

Year _____ Homeroom _____, Year _____ Homeroom _____

	1st Term	Exam	Final	Units
English III				
Am. History				
Music Theory				
Latin IV				
Math 11 (H)				
Chem & Lab				

	1st Term	Exam	Final	Units
Mass Med. Myth & Soc. Psych.				
Latin 4-7				
Math 12 (H)				
Physics				

Plaintiffs' Exhibit 279.

Buffalo Public Schools
Buffalo, New York

Pupil Personnel Services

TRANSFER REQUEST

Date 1/12/72

Name of Child Isaiah Fredricks Age 3/6/56

Address 66 Bof. Ave. Telephone 893-0810

Name of Parent or Guardian Hazel Frederick

Last School Attended McKinley Grade 10

Transfer requested to Bennett

REASON FOR REQUEST: lives in (East H.S. District)

82-83

Average

Academic Course

1-13-72 — Mr. Sikora contacted. Parent was told that son had to have at least a 80 average to be considered for Bennett H.S. Mrs. Frederick stated that she was going to contact Dr. Marsh about this matter.

Granted _____ Referred to _____

Denied X By R. J. Sikora Date 1-13-72

E FREDERICK — LAST NAME | Isaiah — FIRST NAME | INITIAL | ROLL CALL GROUP NUMBER 115 | 292B 391B 195C — 1ST YR. 2ND YR. 3RD YR. 4TH YR. 5TH YR.

YEARLY PROGRAM

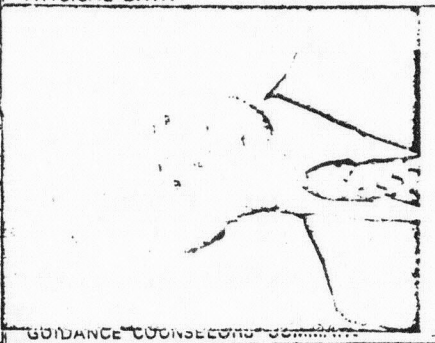
SUBJECTS 1ST TERM	TEACHER	EXAM.	FINAL GRADE	UNITS	SUBJECTS 2ND TERM	TEACHER	EXAM.	FINAL GRADE	UNITS
ENGLISH 1	Martin		90		English 1	Martin	64	90	1
SHOP Adv. Art 1	Hertel		95	1/2	Adv. Art 1	Hertel		78	1/2
Soc. Stu.(U.S. Hist.)	Dorman		68		U.S. Hist.	Dorman	78	73	1
Gen. Math	School		68		Gen. Math	School	86	76	1
Phy. Science	Livingston		78		Phy. Science	Livingston	69	71	1
Health	Gust		78		Health	Gust	76	78	1/2
					Phy. Ed.	Gust		75	1/4
	H					H			
ENGLISH 2	Martin		90		English 2	Martin	92	93	1
SHOP Adv. Art 1	Hertel		83		Adv. Art 1	Hertel	—	81	2
Soc. Stu.(World Hist.)	Schtulberg		84		World Histroy	Schtulberg	58	72	1
Franch 1	Cogar		91		French 1	Cogar	84	88	1
Biology	Liemberger		68		Biology	Liemberger	54	67	1
Mech. Drawing	Schultz		65		Mech. Drawing	Schultz	—	60	0
					GYM	Speth	-	85	1/4
		Roll Call Teacher: EUGENE J. WALCZAK							
ENGLISH 3	MILLER		77		ENG. 3	MILLER	84	80	1
SHOP ADV. ART 2	FELDMAN		68	1	PHOTO 1	WAISH		72	1
Soc. Stu.(AM. HIST.)	FORD		67		AM. HIST.	FORD	68	65	1
GEN. ALG.	GLEASON		GNE		GEN. ALG.	GLEASON	22	50	
FRENCH 2	KIEBZAK		GIF		FRENCH 2	KIEBZAK	44	60	
					GYM.	SPETH		90	
ENGLISH BIOLOGY	PICCILLO	56	F3	1/2	MASS MEDIA	PICCILLO	79	71	1/2
SHOP PHOTO 2	NAISH		76	1	ADV-ART 4	GNANN	-	80	1
Soc. Stu. AM HIST	BORGIOLI	80	84	1/2	CON ED	BORGIOLI	96	75	1/2
CHEM	HURLEY		55*		CHEM	HURLEY	32*	49*	0
MECH DRAW	SCHMIDT		82		MECH DRAW	SCHMIDT	—	15	1
					PHY ED	GUST		85	
ENGLISH									
SHOP									
Soc. Stu.( )									

FREDERICK ISAIAH — STUDENT NAME

PSAT/NMSQT SCHOOL COPY

SEX	YEAR	GRADE	VERBAL	MATH	SELECTION INDEX	VERBAL %ILE	MATH %ILE	SELECT. %ILE
M	72	JR	31	25	087	41	08	06

PHYSICAL DATA



ISAIAH FREDERICK II
Advertising Art
Basketball, Track

GUIDANCE COUNSELORS' SUMMARY

55. HL Alg 68.0 - 55

NYS MIN. COMP.
10/70 READ. 75
GR. 9 ARITH. 84

REMARKS

Tracked Soph Jr. Varsity Basketball 1 yr.

* Two Ad. Art Marks 2nd Sem. Averaged for final grade

TRANSCRIPT SENT TO:	DATE
Junior Standing 208/5.38	
Fashion Inst. of Technology	12/19/73
Fashion Inst. of Technology	6/28/74
Syle Negro Scholarship Foundation	7/24/74

1695

Plaintiffs' Exhibit 279.

NAME FREDERICK (LAST NAME) Isaiah (FIRST NAME) (INITIAL) ADDRESS 66 Box Ave., Buffalo, NY 14211

DATE OF BIRTH 3-6-1956 SEX (M) F PHONE _____ PLACE OF BIRTH Buffalo, NY

FATHER Isaiah MOTHER Hazel GUARDIAN _____

DATE ENTERED 9-9-1970 FROM Gen. Humb. CURRICULUM GA (Adv. Art)

DATE LEFT _____ REASON _____ DIPLOMA ADV. ART

SCHOOL PASSING GRADE _____ LENGTH OF PERIOD _____ GRADUATED JUN 21 1974 (DATE)

	FRESH 1	FRESH 2	SOPH. 1	SOPH. 2	JUNIOR 1	JUNIOR 2	SENIOR 1	SENIOR 2		
Term Average	[illegible]	72.5	80.1	72.9	[illegible]	65.25	74	73		
Days Present	[illegible]		83	88	77	85	74	82		
Days Absent	[illegible]		1	4	10	3	11	7		
Times Tardy	[illegible]		5	14	3	10	15	26		

SUBJECTS COMPLETED	YEAR	NO. WEEKS	EXAM.	FINAL GRADE	UNITS
English I	71	40	84	90	1
English II	72	40	92	93	1
English III	73	40	84	80	1
English IV [illegible]	74	20	74	71	1/2
Sc. Lit	74	20	92	95	1/2
Intro. GA (Adv)	74	20		95	1/2
Intro. Graphic Arts	71	20		97	1/2
Exp. Bld. Trades					
Shop I Adv Art	72	40	-	81	2
Shop II [illegible]	73	20		85	1
Photo I	73	20		72	1
Shop III ( )					
Shop IV (Printing)	74	13		70	1
ADV. ART 4	74	26		80	1
General Math	71	40	86	76	1
Math (Rel. or Tr.) I					
Shop Accounting					
El. Algebra	73	7	55	68.0	1
Math 10					
Math 11					
World Regions	71	40	78	73	1
World History	72	40	58	72	1
Am. History	73	40	68	65	1
[illegible]	74	20	80	84	1/2
[illegible]	74	20	92	95	1/2

SCIENCE	YEAR	NO. WEEKS	EXAM.	FINAL GRADE	UNITS
Phy. Science	71	40	69	78	1
Science (Rel. or Tr.) 1					
Biology	72	40	54	67	1
Chemistry					
Physics					
Mech. Drawing	74	40	-	85	1
Draw (Rel. or Tr.) I					
Draw (Rel. or Tr.) II					
Printing Art I					
Printing Art II					
General Art 1					
General Art 2					
Typing					
Spanish 1					
Spanish 2					
French 1	72	40	84	88	1
French 2					
Health	71	40	76	78	1/2
Phy. Educ. I	71	40	-	75	1/4
Phy. Educ. II	72	40	-	85	1/4
Phy. Educ. III	73	40	-	90	
Phy. Educ. IV	74	40	-	85	
Driver Educ.					
TOTAL UNITS					

MENTAL ABILITY TEST RECORD

Date	Gr.	Test	C.A.	M.A.	I.Q.
9/70	9	Otis Lennon Out			100

ACHIEVEMENT TEST RECORD

Date	Gr.	Test	Gr. Eq.	% ILE

OTHER TESTS

Date	Gr.	Test	% ILE

PERSONALITY RATINGS	FRESH.		SOPH.		JUNIOR		SENIOR	
Seriousness of Purpose	A	D	B	D	[illegible]	C	D	C
Industry	A	C	C	C	[illegible]	C	D	C
Initiative	A	D	C	C	[illegible]	C	D	C
Cooperation	A	C	B	B	[illegible]	C	C	C
Leadership	B	D	C	C	[illegible]	C	C	C
Responsibility	A	D	B	B	[illegible]	C	C	C
Emotional Stability	B	C	B	B	[illegible]	C	C	C

Activities, Honors, Awards, Spec. Interests & Abilities, Work Experiences

RANK IN CLASS

11th Yr.	12th Yr.
—	129/216

DATE _____ SIGNATURE OF PRINCIPAL _____

Form No. MK-1

1696
Plaintiffs' Exhibit 279.

TRANSCRIPT

ELEMENTARY SCHOOL RECORD — DIOCESE OF BUFFALO

133

St. Francis de Sales SCHOOL

FAMILY NAME: Dukes	CHRISTIAN NAME: Sharon	INITIAL: L.	ADDRESS: 171 Hamlin Rd.	
DATE OF BIRTH: NO 9 DAY 2 YEAR 57	PLACE OF BIRTH: Buffalo N.Y.	RACE: Negro	TELEPHONE: 884-8518	
MOTHER'S NAME (OR GUARDIAN): Curtis	LIVING X PLACE OF BIRTH:	RELIGION: Protestant	SEX: X FEMALE MALE	NO. CHILDREN OLDER / NO. CHILDREN YOUNGER
FATHER'S NAME: Helen Lee	LIVING X PLACE OF BIRTH:	RELIGION: None	OCCUPATION: Viroqui-Tonawanda	
			OCCUPATION: Ni. Wire & Co.	

SACRAMENTS	DATE
BAPTISM	
HOLY COMMUNION	
CONFIRMATION	

ACHIEVEMENT TESTS

GRADE	TEST	COMPOSITE GRADE EQ.
8	SRA (1/71) Total Read	5-5
	11 Lang.	5-8

NEW YORK STATE TESTS

GRADE	TEST	% ile

INTELLIGENCE TESTS

DATE	GRADE	TEST	C. A.	M. A.	I. Q.

ADMITTED FROM	FOR GRADE	DATE	TRANSFERRED TO	FROM GRADE

GRADUATED

DATE 6/20/71

TO Lafayette

SPECIAL AWARDS

Plaintiffs' Exhibit 279.

1697

SCHOLASTIC RECORD — JUNE EXAMINATION

SCHOOL YEAR	GRADE	READING	ENGLISH	SPELLING	PENMANSHIP	SCIENCE	SOCIAL STUDIES	GEOGRAPHY	HISTORY	ART	MATH	CLASS STANDING	DAYS PRESENT	DAYS ABSENT	TIMES LATE	GRADE REMARKS
'69 - 70	7		S			S	S				S		171	0	15	Miss P Moore
70 - 71	8	Mid S	85	88	88	83	84				86	85	177	2	2	Sr Madeline Marie

PASSING MARK 75% OR C

RATE BY NUMBER: 1 — VERY GOOD; 2 — SATISFACTORY; 3 — FAIR; 4 — POOR

RESPECT FOR PERSONS IN AUTHORITY	1	LEADERSHIP	2	WORK HABITS	1	HOME ATMOSPHERE
EFFORT	1	PERSONAL APPEARANCE	1	COOPERATION	1	COURTESY
DEPENDABILITY	1	PARTICIPATION IN CLASS	2	ATTITUDE TO SCHOOL	1	

OBSERVATIONS

DATE ISSUED
6/18/71

PRINCIPAL'S SIGNATURE
Sister Mary Joseph

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Plaintiffs' Exhibit 279.

Plaintiffs' Exhibit 280.

BOARD OF EDUCATION – CITY OF BUFFALO

INTEROFFICE MEMORANDUM

Date March 10, 1972

SUBJECT: Report on Children Attending School #30 and #38 that Live Outside of the District.

TO: Eugene Reville, Associate Superintendent

FROM: Anthony J. Girard, Director of School Attendance Services

---

There are thirty-four (34) students attending Public School #30 who live outside of the district. Twenty-seven (27) students are in Public School #16's district and seven (7) are from other districts. Of the thirty-four (34), twenty-six (26) students are white and eight (8) are non-white.

There is a total of fifteen (15) students attending Public School #38 who live in Public School #16's district. Of the fifteen (15), fourteen (14) students are white and 1 is non-white

Twenty-two (22) students were authorized to attend Public School #30 and twelve (12) were accepted without authorization.

Thirteen (13) students were authorized to attend Public School #38 and 2 were accepted without authorization.

Our records show that the following transfer requests to Public School #30 or Public School #38 were denied:

Christin Robert Palen
35 Ashland

Ronald Rybarczyk
916 Niagara

Guilio, Raymond, Ricardo, Cedri
185 Plymouth

Davis, Levern
403 West Utica

REPORT ON STUDENTS ATTENDING PUBLIC SCHOOL #30 THAT DO NOT LIVE IN THE DISTRICT

STUDENTS NAME	ADDRESS	GRADE	RACE	AUTHORIZATION ISSUED	REASON
Molnar, Alexander	60 Agassiz Circle	4	White	NONE	Hardship
Hasan, Sandy	171 Anderson Pl.	3	White	Family previously live on Lancaste allowed to stay until June 1972	
Hasan, Wendy	171 Anderson Pl.	4	White	" " " "	
Sgroi, Joseph	179 Anderson Pl.	2	White	NONE	Hardship
Sgroi, John	179 Anderson Pl.	4	White	NONE	Hardship
Sgroi, Joanne	179 Anderson Pl.	3	White	NONE	Hardship
Roemer, Andrew	183 Anderson Pl.	3	White	NONE	Hardship
Roemer, Karl	183 Anderson Pl.	Kgn.	White	NONE	Hardship
Martin, Lance	120 Anderson Pl.	1	Indian	10/18/71	Medical
Martin, Lisa	120 Anderson Pl.	3	Indian	10/18/71	Medical
Paternostro, Joseph	18 Anderson Pl.	2	White	4/6/71	Medical
Kim, Sung-eun	146 Anderson Pl.	2	Oriental	9/7/71	Social Adjustmer
Leonard, Kimberly	184 Anderson Pl.	2	White	8/18/70	Hardship
Scali, Diane	12 Atlantic	Kgn.	White	9/16/71	Hardship
Scali, Bradley	12 Atlantic	6	White	9/16/71	Hardship
Wilkinson, Jennifer	489 Delaware	1	White	5/11/70	Hardship
Wilkinson, Timothy	489 Delaware	2	White	9/3/69	Hardship
Giokas, Michael	522 Elmwood Ave.	6	White	9/8/71	Harassment
Giokas, Effie	522 Elmwood Ave.	3	White	9/8/71	Harassment
Stieglitz. Katia	325 Elmwood Ave	2	White	9/3/69	Hardship

1700
Plaintiffs' Exhibit 280.

STUDENTS NAME	ADDRESS	GRADE	RACE	AUTHORIZATION ISSUED	REASON
Genco, Steven	1066 Elmwood	5	White	9/23/68	School Adjustme
Manuel, Crystal	58 Girard St.	6	Black Spanish Surnamed	NONE	Pre-registratio form accepted
Huges, Yvonne	76 Girard St.	6	Black		Integration Pro
Jones, Frank	511 Grider St.	6	Black		Integration Pro
Thomas Elizabeth	282 Linwood	Kgn AM	White	1/22/71	Hardship
Montague, Christopher	417 Linwood	Kgn	White	NONE	Pre-registratio form accepted
Manguso, Carolyn	400 Linwood		White	NONE	
Aungst, Catherine	95 Oakland Pl.	4	White	8/28/69	Social Adjustme
Aungst, Edward	95 Oakland Pl.	5	White	8/28/69	Social Adjustme
Aungst, Claire	95 Oakland Pl.	Kgn	White	8/28/69	Social Adjustme
Aungst, Carolyn	95 Oakland Pl.	1	White	8/28/69	Social Adjustme
Robinson, Thomas	93 Orange St.	5	Black		Integration Pro
Griffin, Aaron	221 West Utica	5	Black	NONE	Hardship
Bennett, Daniel	157 Highland Ave.	2	White	8/28/69	Hardship

Plaintiffs' Exhibit 280.
1701

REPORT ON STUDENTS ATTENDING PUBLIC SCHOOL #38 THAT DO NOT LIVE IN THE DISTRICT

STUDENTS NAME	ADDRESS	GRADE	RACE	AUTHORIZATION ISSUED	REASON
Johnson, Joseph	849 Delaware Ave.	8	White	2/24/69	Harassment
Nistler, Dane	375 Richmond Ave.	8	White	7/10/69	Social Adjustmer
Sable, Michael	505 West Utica	7	White	4/9/70	School Adjustmer
Baeumler, Inge	121 Norwood Ave.	2	White	9/1971	Hardship. Mothe a teacher at Pub School #6.
Baeumler, Carlton	121 Norwood Ave.	Kgn.	White	9/1971	Hardship. Mothe a teacher at Pub School #6.
McLean, Dennis	116 Norwood Ave.	6	White	9/8/71	Harassment
McLean, Daniel	116 Norwood Ave.	2	White	9/8/71	Harassment
Migliore, Jacqueline	27 Norwood Ave.	7	White	9/8/71	Hardship. Parer have business ne Public School #3 and want their children to go t closest school.
Migliore, Janet	27 Norwood Ave.	8	White	9/8/71	" " "
Ahmed, Guljar	217 Norwood Ave.	4	Pakistani	9/8/71	Hardship
Leone, Steven	226 Norwood	2	White	9/8/71	Moved during th allowed to stay June 1972
Leone, Sharon	226 Norwood	4	White	9/8/71	" "
Leone, Linda	226 Norwood	7	White	9/8/71	" "
Carrubbe, Rosano	254 Ashland	8	White	NONE	Came from Italy could not speak English. Hards
Picerro, Darlene	200 Ashland	8	White	NONE	" "

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THE UNIVERSITY OF THE STATE OF NEW YORK
THE STATE EDUCATION DEPARTMENT
OFFICE OF THE PRESIDENT OF THE UNIVERSITY
AND COMMISSIONER OF EDUCATION
ALBANY, NEW YORK 12224

PLAINTIFF'S EXHIBIT 298

Wednesday
October 10
19 73

TO: The Honorable The Members of the Board of Regents

FROM: Ewald B. Nyquist

SUBJECT: Desegregation-Integration Activities

The Regents devoted considerable time during their September session to the issue of school integration in New York State. Although the specific issue centered about the Commissioner's decision in a particular appeal of a New York City Central Board of Education decision (Appeal of Martha Harris v. City School District of the City of New York) the concerns expressed had wider implications.

Under the circumstances it seems appropriate to review recent Department activities and projections pertinent to this important area. The attached report does not purport to be all inclusive with respect to such work, for it focuses on desegregation per se and does not reveal the commitment of hundreds of professional man-hours annually to achievement of interracial understanding and harmony among all segments of our population.

Nevertheless, I hope these accounts exhibit a persistent positive pattern of action consistent with Regents policy and the best interests of the children and citizens of our State.

Respectfully submitted,

Ewald B Nyquist

Ewald B. Nyquist

Attachment

10 73

CW 7.1-1.3

Plaintiffs' Exhibit 280.

Plaintiffs' Exhibit 298.

Division of Intercultural Relations in Education

1. This is the State Education Department unit, hereafter referred to as "the Division," directly responsible for school integration activities. It reports to and supports the Commissioner through one intermediate level, the Deputy Commissioner for Elementary, Secondary and Continuing Education. The goals of the Division are to (1) effect school desegregation. (2) promote school integration (racial relationships), and (3) to achieve equality of educational opportunity.

2. Background Information

Following the Malverne decisions (3) of 1963, desegregation activities, both voluntary and non-voluntary, were accelerated throughout the State. By providing financial assistance to desegregating districts through the "Racial Balance Fund" the Legislature, from 1966 through 1971, assumed effective leadership in helping to reduce racial isolation in the schools of the State - most of which was on a voluntary basis. The termination of the Racial Balance Fund, the passage of a "voluntary school assignment" law (later held to be unconstitutional), and negative influences at the national level, all discouraged voluntary desegregation and weakened efforts to implement Regents' policies in this area. Within the past year the Division of Intercultural Relations was given priority in staffing and for the first time in five years brought up to full strength. Directives from the Commissioner and Deputy Commissioner have resulted in an intensification of desegregation activities.

3. Desegregation Activities

During 1971-72 there was greater activity in the integration than in the desegregation mission of the Division. During 1972 the Department approached desegregation efforts by appointing committees consisting of Department personnel to evolve plans for Buffalo, Utica and Newburgh. Ranking members of the Department headed these committees. Division personnel served as working members of the committees. Emphasis was placed on evolving educational improvement strategies as part of desegregation efforts. Excellent plans were evolved, but it was a time-consuming process, and recalcitrant districts found ways to use the procedure to delay desegregation. Meanwhile, staff members provided technical assistance to the above-mentioned districts, as well as to Huntington, Mount Vernon, Lackawanna and others.

During the past year, with the progressive build-up of the Division staff, prime leadership in desegregation activities has been resumed by the Division. Upon direction of the Commissioner and Deputy Commissioner, the Division now prepares drafts of desegregation orders (including but not limited to desegregation plans) for administrative and legal review. Within recent months three orders have been completed and two more are in preparation. Efforts are concentrated on achieving effective desegregation, rather than on the many faceted aspects of general educational improvement. A sequence has evolved in which a district is first asked to evolve a desegregation plan of its own; then, if local response is not adequate, efforts are made to evolve a plan through cooperative action between the district and the

Department; and finally, if the district response is still not acceptable, a desegregation order is prepared. The knowledge that an order is in preparation has prompted several recalitrant districts to give renewed interest to local desegregation planning.

It has been the exception, rather than the rule, that districts have voluntarily implemented desegregation plans. Several years ago Niagara Falls, under excellent local leadership, desegregated voluntarily. Despite severe financial pressures (some caused by the additional cost of desegregation), the achieving of educational equality for all students has been accelerated. Last month Huntington desegregated, and while there was pressure in the form of a Commissioner's order, the Huntington Board evolved and implemented a plan of its own. Renewed activity of a voluntary nature is anticipated.

4. New York City

Inasmuch as our Department staff have not been as closely involved in a school-by-school or district-by-district rezoning and pupil transfer activity in New York City as in other cities and districts of New York State, there is a tendency to believe that the matter has not been addressed. The Regents are, of course, aware of some of the appeals which have been brought to the Commissioner and some of the orders which have been issued as a result of those appeals.

New York City Decentralization Law places the responsibility for inter-district school zoning with the New York City Central Board of Education and in that sense it is not necessary for the Board to restrict itself to district lines in making decisions which effect assignment of pupils for those purposes. Over the years the Board has entered into various zoning arrangements, often against severe complaints of the residents of the City, and have reassigned pupils from one district to another in an attempt to solve segregation problems. At this writing thousands of children are attending schools outside of their neighborhoods or districts or in schools specifically zoned to provide a better integrated education.

Chancellor Anker has been asked to provide us with a resume of these activities. He knows full well, as do we, that there are many very difficult problems to be solved with respect to this matter, but joins us in an effort to dispel the notion that the matter has not received attention. That report will be circulated to the Regents as soon as we have received it.

Plaintiffs' Exhibit 298.

5. Affirmative Action Program

Early in 1972 Commissioner Nyquist requested that the Division of Intercultural Relations in Education prepare a priority listing of school districts with which the Department might begin affirmative action integration activities. A list of districts not under Commissioner's orders to desegregate, but which contain school buildings which were essentially segregated, was prepared with a view toward promoting desegregation and racial integration whether or not an appeal from such districts had been instituted.

A listing of school districts in which such activity is indicated follows. This listing has been updated as of October 9, 1973. As mentioned above we are awaiting a comprehensive report as to integration status in New York City. However, it is our estimation that 16 city community districts presently contain the elements common to those listed below.

School District	No. of Schools	No. Segregated Schools	District Enrollment	District Minority %
Rochester	58	45	46,843	31.1
Yonkers	40	24	30,504	13.1
Albany	24	18	11,314	32.7
Syracuse	45	24	30,114	22.5
Schenectady	24	11	12,925	7.7
New Rochelle	13	6	12,175	21.6
Port Chester	9	6	4,960	23.0
Beacon	6	4	3,535	19.1
Monticello	6	4	3,359	15.4
Ossining	7	4	5,479	16.4
Uniondale	10	3	7,485	13.2
Troy	13	4	6,900	11.9
Peekskill	6	2	3,665	28.8
Kingston	19	3	11,100	5.8
Ithaca	16	2	8,302	4.8
Binghamton	19	1	11,522	3.6

6. Individual District Actions

Attached hereto are brief accounts of Department activities with respect to desegregation and integration of school populations in Buffalo, Huntington, Lackawanna, Mount Vernon, Newburgh, Niagara Falls and Utica.

Plaintiffs' Exhibit 298.

Buffalo

On April 6, 1972, the Board of Education of Buffalo was informed by Commissioner Ewald Nyquist that members of the State Education Department staff were to work with Buffalo school officials to develop an appropriate desegregation plan for the school district. This action was taken because of the consistent failure of the Board to develop and implement a plan of its own.

The plan which was prepared by State Education Department personnel was submitted to the Buffalo Board on November 15, 1972 with a request that by January 3, 1973, the Board's reactions and suggestions be sent to the Commissioner. Subsequently the Board of Education, in various responses to the Commissioner and Dr. Thomas Sheldon, Deputy Commissioner, rejected the plan in its entirety and more or less closed the door on any cooperative effort. In regard to further discussion of the State Education Department plan, Board President Murphy stated to Dr. Sheldon that ". . . if your discussion with us should in any way involve forced busing then, in view of the attitudes of a majority of the Board, there would be no point to such a discussion."

Although a meeting was eventually held between Dr. Sheldon and Board members, the Board's reaction remained negative. Because of this impasse, the Commissioner was left no alternative but to order the Buffalo Board of Education to implement a plan of desegregation prepared by the State Education Department. Accordingly, on August 2, the Division of Intercultural Relations submitted to the Deputy Commissioner two copies of a draft of a "show-cause" order for desegregation of the Buffalo schools. The order is currently in office of Counsel. It embosies the essential elements of the study prepared by our staff in 1972.

Meanwhile Regent Genrich has been making an attempt to obtain cooperation of the Buffalo Board of Education.

Plaintiffs' Exhibit 298.

Huntington

On January 11, 1973, the Huntington School District announced that it was redistricting its school system to achieve the racial balance ordered by Commissioner Ewald B. Nyquist in July of 1972. Implementation of the plan to achieve school integration in Huntington was begun in the summer of 1973. Superintendent Charles Rudiger reported in August to Dr. Stanley Campbell, Administrator, Division of Intercultural Relations, that implementation was being effected smoothly.

The transportation system of the school district was reorganized in order to provide the service necessary for reassignment of students to schools. This revision brought to light many ways in which greater efficiency and economy could be accomplished than had been achieved previously. Superintendent Rudiger anticipates that this will actually result in a saving to the school district in the years ahead.

Other steps taken toward implementation include the establishment of a $40,000 "contingency fund", the addition of several professional staff to serve as home-school coordinators and the offering of so-called "Extension Courses" for preparation of teachers to function effectively in integrated classrooms.

On October 11, Dr. Campbell will meet at Huntington with Superintendent Rudiger to learn how the implementation is progressing since the opening of the new school year. He will also, at that time, offer the services of the Division staff to render whatever technical assistance seems appropriate.

Plaintiffs' Exhibit 298.

Lackawanna

The Commissioner ordered the Lackawanna Board of Education to submit to him a plan for integration and the improvement of instruction in the Lackawanna Schools. The order was given in Decision No. 8484 dated June 20, 1972. On May 10, 1973, a report prepared by the Lackawanna Advisory Committee on Education (LACE) was submitted to the Commissioner. The Commissioner examined the report and staff members of the Division of Intercultural Relations in Education studied those portions of the report pertaining to school integration.

By letter dated August 9, 1973, Commissioner Nyquist disapproved the proposed integration plan for the Lackawanna School District. His disapproval basically was concern with the District's failure to take effective immediate steps to improve integration in grades K-8. Commissioner Nyqist also offered to the District the services of the Division of Intercultural Relations in Education.

By letter dated September 21, 1973, to the Commissioner, the Lackawanna Board of Education requested additional help from Dr. Stanley Campbell and other appropriate State Education Department officials. This additional help is needed to improve upon the previously submitted integration plan. Department staff members are making arrangements to provide initial assistance during October, 1973. Meanwhile the Division of Intercultural Relations is in the process of preparing a desegregation order for Lackawanna. The order should be completed by November, 1973.

Plaintiffs' Exhibit 298.

Mount Vernon

September 1, 1973 had been established as the target date for the Mount Vernon Board of Education to submit an acceptable desegregation plan. This decision was made by the Commissioner as a result of many acts, and actions that have had the effect of constituting stalls, delays and even defiant gestures on the part of the Board to circumvent the Commissioner's order to take steps to reduce racial imbalance in the Mount Vernon Schools.

Englehardt and Englehardt, educational consultants, had been retained by the Mount Vernon Board of Education in March, 1972, to study the situation and propose a possible solution by presenting a desegregation plan. The Commissioner agreed to study a proposal emanating from the educational consultants. The Mount Vernon Board of Education accepted one of the eleven Englehardt options as the one that they would proceed to develop as a desegregation plan. This they are considering their Master Plan.

The Bureau staff was asked to develop a desegregation plan that was feasible for Mount Vernon in the event the Board did not work out an acceptable plan by the agreed-upon deadline. Such a plan had been developed, and is now in the process of undergoing final detailing.

In the meantime, Dr. Ramsey, the Bureau Chief, has had meetings with the Board of Education in an effort to lend State Education Department assistance in the development of an acceptable plan. Dr. Ramsey and the Board have had some very amicable meetings, concerning the issue of total desegregation for the Mount Vernon School System. These discussions have centered around the reorganization of the school system into a K-3 component on the North Side, a 4-6 component on the South Side, and the continuation of the middle school and high school programs as they now exist.

Plaintiffs' Exhibit 298.

The Board of Education is in the final phases of the consideration of a plan. They requested permission to hold final discussions on their plan Tuesday, October 9, 1973, and then contact the State Education Department no later than Wednesday afternoon, October 10, 1973 for presentation of that plan.

Permission has been granted to the Board for the final discussion and presentation. In the meantime, a desegregation order that was developed by the Division of Intercultural Relations was sent to the Deputy Commissioner on October 3, 1973.

Plaintiffs' Exhibit 298.

Newburgh

A draft plan for the reorganization and desegregation of the Newburgh City Schools was sent to the Newburgh Board of Education for consideration on August 8, 1973. This plan for reorganization represented the combined efforts of the staff of the Bureau of Educational Integration, Division of Intercultural Relations of the State Education Department, over a period of several months.

Correspondence from Mr. Floyd W. Penny, President, Newburgh Board of Education, to Commissioner Nyquist dated August 14, 1973 acknowledged receipt of the plan. In this correspondence, Mr. Penny requested that presentation of the proposal be made to the citizenry of Newburgh by the Commissioner.

Before the Commissioner was able to respond to the aforementioned request of Mr. Penny, the Newburgh Board of Education met on August 14, 1973 and adopted a resolution rejecting the proposal for the reorganization of its schools.

Subsequent to the Board's resolution rejecting the State Education Department's proposal, Commissioner Nyquist corresponded with Board President Penny in which he reiterated his expectations for reactions and recommendations by September 17, 1973. Additionally, the Commissioner said; ". . . we will then review your comments and arrange for such joint discussions and consultations as seem indicated and appropriate ."

There has been a teachers' strike in Newburgh since the opening of school. Out of consideration for the difficulties a district experiences during a strike, the commissioner has delayed the date of expected response. Upon settlement of the strike, the Board has indicated it will arrange to meet with the Commissioner's representatives to discuss the matter before formal action is taken.

Plaintiffs' Exhibit 298.

Niagara Falls

On June 4, 1970, the Niagara Falls Board of Education adopted Proposal 21 - INTERGROUP, a plan derived by a Special Board Committee on Integration to achieve racial balance in the Niagara Falls schools. The plan made provision for future changes in enrollment, population shifts, and schools which become racially imbalanced as determined by the Niagara Falls Board of Education. As the result of a further resolution adopted at the June 4 meeting, Plan 21 was implemented with the opening of school in September, 1970.

Niagara Falls received national attention inasmuch as it is the largest city in New York State and one of the largest cities in the United States to have accomplished voluntary district wide total school integration.

Plan 21 was the result of more than three years of work and the close cooperation of the Niagara Falls Board of Education with New York State Education Department as the Board sought to implement the policy of the Regents of the University of New York regarding integrated education. The Niagara Falls city school board accepted the guidance of the State Education Department in defining desegregation to mean that each school would have approximately the same percentage as the total district-wide percentage. In 1969-70, all senior and junior high schools and 13 of the 21 elementary schools had approximately 18 percent black student enrollment which was the district-wide percentage. Plan 21 set up attendance geographical lines of the remaining eight non-integrated schools by counting out from the school location until an enrollment of either 20 per cent black or 80 per cent white was reached, and then making arrangements to bus in students of the opposite race to meet the 100 per cent.

On August 14, 1970 Commissioner of Education Ewald Nyquist announced that a special State allocation of $80,578 had been granted to the city school district for implementing Plan 21. The State's financial support was from funds appropriated to

Plaintiffs' Exhibit 298.

the Education Department by the Legislature for assisting school districts in paying the additional costs involved in solving problems of racial imbalance.

In June 1973, Niagara Falls, after an earlier rejection and following strong support on the part of the Department, received notice from Robert H. Seitzer, Regional Commissioner, that the application they had submitted for funding under the Emergency School Aid Act had been approved by the Associate Commissioner of the Bureau of Equal Educational Opportunities. The purpose of the Act under which Niagara Falls sought funding was in meeting the special needs incident to the elimination of minority group segregation and discrimination among students and faculty in elementary and secondary. The grant was funded at $768,500.

The Division of Intercultural Relations participated in the preliminary review of ESAA proposals and after review submitted recommendations to school districts for improving the proposal and offered technical assistance where appropriate.

Plaintiffs' Exhibit 298.

The Commissioner of Education has issued three orders concerning integration of the Utica City Schools since 1971. The first was in response to citizens of Utica, petitioning for the reduction of racial isolation in schools. Subsequent orders were necessitated by the failure of the Utica Board to take adequate corrective action.

The Utica Board of Education was directed to submit a desegregation plan by March, 1972. When it did not comply with the order the Commissioner appointed a committee from the State Education Department to develop a plan for mutual consideration. The plan was rejected by the Board in September, 1972. Continuous urging by the Department for the Utica Board to develop a plan resulted in the Board adopting an "open enrollment" plan in June, 1973. During several subsequent months only 25 Black students and 2 white students had taken advantage of the plan. Utica officials were informed the plan was inadequate.

The Utica Board, following a meeting arranged by Regent Griffith during July 1973, asked the School Superintendent to develop draft plans for its consideration. A portion of the plan provided for the closing of two schools which had the greatest racial isolation. One was predominately white. The Board later rejected the closing of one of the schools because it was not large enough for a school administrative building. Other parts of the Superintendent's plan have been requested so that our offices may have maximum advantage of local expertise.

Upon the receipt of directives from the Commissioner and Deputy Commissioner the Division of Intercultural Relations prepared a draft of a desegregation order based on the 1972 study prepared for Utica. It was sent to the office of the Deputy Commissioner on August 8, 1973, and is currently being processed in the Office of Counsel. It may still be amended in view of local input referred to above.

Plaintiffs' Exhibit 299.

THE UNIVERSITY OF THE STATE OF NEW YORK
THE STATE EDUCATION DEPARTMENT
OFFICE OF THE PRESIDENT OF THE UNIVERSITY
AND COMMISSIONER OF EDUCATION
ALBANY, NEW YORK 12224

RECEIVED OCT 26 1973

Tuesday
October 23
19 73

152

Honorable Kenneth B. Clark
MARC Corporation
60 E. 86th Street
New York, New York 10028

Dear Ken:

I have your letter of September 27, concerning my decision in the Harris appeal, in which you ask that I respond to certain questions posed in your letter.

If your questions related to a matter other than a decision rendered in my judicial capacity, I would of course answer each of them fully and completely. However, since they do relate to such a decision, it would be inappropriate for me, as it would be for any judicial officer, to extrapolate my written decision in the matter which was before me.

I can point out, however, without violating those constraints, a basic concept underlying my appellate, judicial role which your letter and your public statement of September 21 appear to have overlooked. In determining whether an action of local school authorities - in this case an action of the New York City Board of Education - should be set aside, it is not my function to determine whether I, if making the decision in the first instance, would have taken the same action, or whether the local action was the optimum solution to the problem at hand. Rather, it is my function to make a judgment whether the local action was arbitrary or capricious, or was contrary to law or to sound educational policy. Although I fully appreciate that you disagree, it was, and is, my judgment that the March 30, 1973 decision of the Board of Education was none of those things.

At the same time, I am fully aware that despite the efforts of the past dozen years to achieve quality integrated education

Plaintiffs' Exhibit 299.

in all the schools of the State, and despite significant success in many areas, we have nevertheless only scratched the surface. My personal dedication to that imperative objective will continue unabated.

Faithfully yours,

Ewald B. Nyquist

Plaintiffs' Exhibit 300.

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BOARD OF EDUCATION – CITY OF BUFFALO

INTEROFFICE MEMORANDUM

Date March 5, 1973

SUBJECT: Recruitment of Minority Staff Members

TO: Dr. Joseph Manch, Superintendent of Schools

FROM: Mr. Clapp, Mr. Connors and Mr. Reville

At the request of the Board of Education, the staff has reviewed the question of recruitment of members of minority groups for appointment to instructional staff positions. We wish to present for your consideration the following facts and recommendations:

1. Ninety-five percent of our recruitment comes from the college campuses in the western New York area.

2. In order to attract minority group candidates from out of state in any significant numbers, examination centers will have to be established in geographical areas convenient to potential candidates.

3. Eligible lists established this year and last year will be sufficient to satisfy our staffing needs in most teaching areas for the 1973-74 school year.

4. Shortages of qualified teachers on eligible lists still exist in the areas of Science, Mathematics and Vocal Music.

5. Black students attending colleges have a tendency to concentrate their training in areas of high competition such as Elementary Education, Education of the Mentally Retarded, Social Studies and Language Arts.

We would recommend the following proposals as a means of increasing the number of qualified minority staff members in our school system:

1. Concentrate our recruitment efforts for 1973-74 staffing through direct contact with minority group candidates on western New York campuses who will have certification by August 31, 1973 in the shortage areas of Mathematics, Science and Vocal Music. Hiring practices will have to be within the limits established in the Master Contract.

Plaintiffs' Exhibit 300.

2. An intensive advertising and recruitment program should be established this fall in selected areas where there is a concentration of black campuses to interest college seniors and graduate students to participate in the November 1973 and January 1974 Buffalo teacher examinations. The services of the NEA, college placement offices, branches of the National Urban League and other informed sources should be used to contact sources of potential candidates.

3. Information regarding the examinations should be disseminated widely, using newspapers and radio stations oriented towards the black communities as a prime source of promotion. Notices should provide all the essential information about the examinations, emphasizing the date and place of examination and procedures for making application.

4. Teams of examiners and interviewers should be sent to the selected areas immediately following the nation-wide administration of the National Teacher Examinations to administer subject matter tests and to conduct oral interviews for those interested candidates who have applied for positions with our school system through the examination process.

5. Continued emphasis should be made on recruiting members of the local Teacher Corps and SEEK programs for the Buffalo school system.

6. Consideration should be given to the reassignment of present staff to assure a better balance of existing faculty at each school.

1720

Plaintiffs' Exhibit 303.

Appendix A

THE UNIVERSITY OF THE STATE OF NEW YORK
THE STATE EDUCATION DEPARTMENT
ALBANY, NEW YORK 12224

Shirley Aaron

OFFICE OF
THE DEPUTY COMMISSIONER OF EDUCATION

156

Wednesday
June 18
19 69

Dr. Matt A. Gajewski
President
Board of Education
201 City Hall
Buffalo, New York 14202

Re: Matter of the Appeal of Yerby Dixon et al. v.
Board of Education of the City of Buffalo

Dear Dr. Gajewski:

The Progress Report on Accelerating Quality Integrated Education submitted to the Commissioner by the Buffalo City Board of Education has been reviewed. In summary it says:

-- From 38 schools in the inner city, 2,043 students are being transferred to receiving schools in the periphery of the city.

-- The voluntary transfer plan has been extended to include inner city pupils in kindergarten through grade 3.

-- An institute on problems incident to urban school desegregation has been established for administrators of both sending and receiving schools.

-- It is planned that the West Hertel Middle School should open as a model integrated school for grades 5-6 in September of 1969.

-- Funds for the preliminary planning for the middle schools for 25,000 students in grades 5-8 are being provided through Project 1990, such planning to include studies of location, transportation, site availability, long range projection and metropolitan educational parks.

-- Authorization to proceed with a bond issue to plan additional middle schools has been tabled by the Buffalo City Council.

Plaintiffs' Exhibit 303.

Dr. Matt A. Gajewski June 18, 1969

-- Fillmore opened as Buffalo's first middle school racially balanced.

-- The Board of Education plan to use relocatable classrooms to further the integration program was delayed by action of the Common Council and the courts.

-- Steps have been taken to improve recruitment and promotion procedures for personnel.

-- Extensive steps have been taken to improve teacher preparation for urban schools.

-- Project Situp at Public School 54 is producing improvement in reading and mathematics in a racially balanced school.

-- Basic classes in grades 3-7 have been discontinued and pupils regrouped into regular classes.

I am informed that, since you submitted your report, action in the Appellate Division in Rochester has upset the amendment by the Common Council to Section 201 of Chapter XII of the Buffalo City Ordinances. Thus, the legal bar to your proceeding with the plan to erect relocatable buildings has been removed.

Further, I understand that you have requested a sum of $400,000 for the planning of the middle schools to be included in the City's capital improvement plan for 1969-70.

The difficulties you described in your report apparently have slowed down the forward thrust of the Buffalo Public Schools in regard to achieving quality integrated education. Your report and other information submitted in the regular reporting system to the State Education Department show that 2,043 students were transferred from the core area to schools in the periphery in the fall of 1968. Unfortunately during the past two years, while the white enrollment in the Buffalo schools was decreasing by 2,045 (4 percent of whites), the Negro enrollment was increasing by 1,042 pupils (4 percent of Negroes). Clearly unless there is an acceleration in the implementation of plans for achieving quality integrated education in the Buffalo School System, the present trend may become irreversible. Despite the progress described in the report, the conditions which prompted an appeal to the Commissioner of Education by the parents of Negro children still exist.

Plaintiffs' Exhibit 303.

Dr. Matt A. Gajewski

June 18, 1969

In a group of 22 elementary schools with Negro students varying from 22 percent to 99 percent in 1966-67, one shows a reduction of three percent by 1968-69; seven show a reduction of less than one percent; while six show increases varying from 5.7 to 22.7 percent. Sixteen of the 22 schools are more than 90 percent Negro in 1968-69; the same schools had over 90 percent Negro students in 1966-67.

Another group of 13 elementary schools had Negro students varying from none to 16 percent in 1966-67. By 1968-69 the percentages ranged from zero to 22 percent.

In the 38 elementary schools designated to receive inner city children, the percent of Negro students varied from zero to 18.9 percent in 1966-67; by 1968-69 the range was from 1.3 to 37.8 percent. School by school percentage changes to 1968-69 range from a 4.4 percent loss to a 23.1 percent increase; half of the schools (19) showed increases from 1 to 5 percent; nine schools from 6 to 10 percent.

You and the Board deserve strong credit for the steps you have taken to prepare principals, teachers and other staff members to carry out your plans for quality integrated education. However, it is necessary to place more emphasis upon the actual mingling of the students so that each may benefit by contacts with other children of varying backgrounds. In this connection it should be pointed out that Chapter 342 of the Laws of 1969 does not prohibit the assignment of pupils by an appointed board for the purpose of achieving equality of educational opportunity through the correction of racial imbalance if such arrangement is made in the manner requested or authorized by the parents or guardian of each pupil so assigned. I understand that you are proceeding on this basis.

The beneficial effects of such mingling are shown in "A Study of the Educational Effect of Integration" released by your own Division of Curriculum Evaluation and Development, January 1969. In summary it says:

"FINDINGS

* Negro pupils integrated into classes with white pupils make greater gains in academic achievement than do pupils who remain in segregated schools.

* White pupils do not suffer losses in academic achievement as a result of integration.

Plaintiffs' Exhibit 303.

Dr. Matt A. Gajewski June 18, 1969

* Negro pupils make the greatest gains when they are in integrated classes where the number of Negro pupils is 30 percent or under.

* Principals and teachers in schools receiving Negro pupils believe that the integration program has demonstrated positive educational results.

* Parents of Negro and white pupils involved in the integration program believe that it is educationally sound.

* Negro and white pupils involved in the integration program believe that it is a good idea."

In the light of the foregoing considerations, I ask that you let me know your plans for forward motion in the 1969-70 school year. What actions are you currently taking which will achieve greater integration in the schools in the fall of 1969? May I have your reply within one month?

Faithfully yours,

Ewald B. Nyquist
Acting Commissioner of Education

cc: Matthew Perry, Esquire
20 West 40th Street
New York, New York 10018

Herman Schwartz, Esquire
State University of New York at Buffalo
77 West Eagle Street
Buffalo, New York 14202

Joseph Manch, Superintendent of Schools

1724

Plaintiffs' Exhibit 304.

PLAINTIFF'S EXHIBIT
304
CIV-72-325

Sent to all Superintendents

THE UNIVERSITY OF THE STATE OF NEW YORK
THE STATE EDUCATION DEPARTMENT
OFFICE OF THE PRESIDENT OF THE UNIVERSITY
AND COMMISSIONER OF EDUCATION
ALBANY
12224

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March 6, 1964

Memorandum to: The Honorable Members of the Legislature

From: The Commissioner of Education

For your information I attach herewith a summary statement of the State Education Department's position with respect to the elimination of de facto segregated schools.

Sincerely,

James E. Allen, Jr.

James E. Allen, Jr.

Plaintiffs' Exhibit 304.

THE UNIVERSITY OF THE STATE OF NEW YORK
THE STATE EDUCATION DEPARTMENT
ALBANY 1

Summary of State Education Department's Position with respect to the Elimination of De Facto Segregation in the Schools

The following is a summary of the State Education Department's position with respect to the elimination of de facto segregation in the public school systems of the State:

1. It is the responsibility of the State to see that every child has an equal opportunity for a quality education regardless of his race, creed, color, place of residence, social or economic background.

Many conditions limit the attainment of this objective. One of these conditions is the existence of racially segregated schools.

2. It is the position of the Department that racially segregated schools are a handicap to the achievement of equality of educational opportunity and must, therefore, be eliminated in New York State.

Experience has shown that when the proportion of Negroes in a particular school reaches a critical point, white parents tend to seek other schools for their children; teachers seek assignment in what they consider more desirable schools; and there tends to be a lowering of general morale, pupil motivation and achievement. These, among other factors, make the problem of de facto segregation, or racial imbalance, relevant to the problem of providing equality of educational opportunity in our public schools.

3. The elimination of de facto segregated schools is to be sought as an important means to good education, not as an end in itself.

Our primary concern is for the improvement of educational opportunity for all children. Children must be properly housed in a good school and well educated no matter where they happen to live. Integration is an important means of improving educational opportunity for all children.

Plaintiffs' Exhibit 304.

4. When application of the neighborhood school policy creates or perpetuates inequalities of educational opportunity, a change in the application of that policy is called for.

A "neighborhood school" offers important educational values which should not be overlooked. The relation between a school and a definable community with which it is identified can, in many cases, lead to more effective participation by parents and other citizens in the support and guidance of the school. It can stimulate sound concern for the welfare of the school and its pupils and can lead to beneficial communication between the school staff and the community that staff serves. When a "neighborhood school" becomes improperly exclusive in fact or in spirit, when it is viewed as being reserved for certain community groups, or when its effect is to create or continue a ghetto type situation, it does not serve the purpose of democratic education. In short, when the application of the neighborhood school principle in a particular location fails to produce good schools, its application in that location should be reviewed and revised.

5. In keeping with the principle of local control, it is the responsibility of the local school authorities to develop and implement the necessary plans to eliminate de facto segregated schools.

It is recognized that in some communities residential patterns and other factors may present serious obstacles to the attainment of racially balanced schools. This does not, however, relieve the school authorities of their responsibility for doing everything within their power, consistent with sound educational principles, to achieve equitable racial balance.

In order that the Department would know local plans for dealing with de facto segregation, school boards were asked last June to submit information to the Department on all schools in which 50% or more of the enrollment was Negro. The 50% figure was used as a statistical point of reference to identify those schools from which relevant information was requested, not as a definition of racial imbalance.

To assist local authorities in developing their plans and in formulating their policies, a statement of "Guiding Principles for Dealing with De Facto Segregation in Public Schools" was prepared and sent to each school district. A copy of this statement is attached.

Plaintiffs' Exhibit 304.

The State, of course, has broad responsibility for education. For practical considerations and as a matter of principle, the State delegates to local authorities the power for administering local affairs in education. There are a variety of ways of dealing with the elimination of de facto segregation. With their intimate knowledge of all the factors of the local situation, local authorities are best equipped to devise solutions best suited to local needs. In some communities the bussing of children may be necessary to bring about equality of educational opportunity for all children. What is feasible and practical will have to be considered. The Department has not proposed State-mandated bussing to eliminate imbalance, believing as we do that the most effective means of dealing with this problem can best be determined at the local level. The Department, of course, stands ready at all times to assist local authorities in their planning.

While the public school authorities have a special responsibility for leadership in the elimination of de facto segregation, the problem is also the responsibility of every citizen -- of government officials, civic leaders, leaders of ethnic and racial groups. The existence of segregation, de jure or de facto, not only creates individual and group injustice, abhorrent to all who believe in the dignity of man and the equality of opportunity implicit in a democracy, but it also poses a threat to the economic, social and cultural health of the community, State and nation. It is, therefore, of utmost importance, both as a practical matter and as a moral obligation, that prompt action be taken to correct the situation wherever it exists.

Attachment

3/6/64

C1394 DU 3/6/64

Plaintiffs' Exhibit 304.

THE UNIVERSITY OF THE STATE OF NEW YORK
THE STATE EDUCATION DEPARTMENT
OFFICE OF THE PRESIDENT OF THE UNIVERSITY
AND COMMISSIONER OF EDUCATION
ALBANY

GUIDING PRINCIPLES FOR DEALING WITH DE FACTO SEGREGATION IN PUBLIC SCHOOLS

(Drafted by the State Education Commissioner's Advisory Committee on Human Relations and Community Tensions)

In contemporary America, race or color is unfortunately associated with status distinctions among groups of human beings. The public schools reflect this larger social fact in that the proportion of Negroes and whites in a given school is often associated with the status of the school. The educational quality and performance to be expected from that school are frequently expressed in terms of the racial complexion and general status assigned to the school. It is well recognized that in most cases a school enrolling a large proportion of Negro students is viewed as a lower status school. It is also true, of course, that an all white school enrolling a substantial proportion of children from culturally deprived homes is frequently considered less desirable.

A cardinal principle, therefore, in the effective desegregation of a public school system is that all of the schools which comprise that system should have an equitable distribution of the various ethnic and cultural groups in the municipality or the school district. Where serious imbalance exists the school with the highest proportion of minority group and lower-status children tends to receive more such children as parents who are able to do so move to neighborhoods and schools of higher status.

A program which seeks an equitable distribution of majority and minority group children in all of the schools of a district offers several advantages. It will enable all children to profit from acquaintance with others of different backgrounds than their own, it will reduce distinctions among schools based on non-educational factors, and will probably stabilize the shifts of enrollment which often follow the arrival of minority group children in disproportionate numbers in a particular school.

The Committee recognizes that long established patterns and community customs are not easily or quickly changed and that

psychological and social factors operate on all sides of such a situation as the one now before you. We therefore suggest six principles which seem to us relevant to the whole question of racila balance in the schools.

1. The common school has long been viewed as a basic social instrument in attaining our traditional American goals of equal opportunity and personal fulfillment. The presence in a single school of children from varied racial, cultural, socio-economic, and religious backgrounds is an important element in the preparation of young people for active participation in the social and political affairs of our democracy.

2. In forming school policies, every educationally sound action should be taken to assure not only passive tolerance but active acceptance of and genuine respect for children from every segment of the community, with particular attention given to those from minority groups that may have been the objects of discriminatory mistreatment.

3. No action, direct or indirect, overt or covert, to exclude any child or group of children from a public school because of ethnic, racial, religious, or other educationally irrelevant reasons should be taken by any public agency. Wherever such action has occurred it is the obligation of the school authorities to correct it as quickly as possible.

4. No action should be taken which implies that any school or any group of pupils is socially inferior or superior to another, or which suggests that schoolmates of one group are to be preferred to schoolmates of another. In establishing school attendance areas one of the objectives should be to create in each school, a student body that will represent as nearly as possible a cross-section of the population of the entire school district, but with due consideration also for other important educational criteria including such practical matters as the distance children must travel from home to school.

5. A "neighborhood school" offers important educational values which should not be overlooked. The relation between a school and a definable community with which it is identified can, in many cases, lead to more effective participation by parents and other citizens in the support and guidance of

the school. It can stimulate sound concern for the welfare of the school and its pupils and can lead to beneficial communication between the school staff and the community that staff serves.

6. When a "neighborhood school" becomes improperly exclusive in fact or in spirit, when it is viewed as being reserved for certain community groups, or when its effect is to create or continue a ghetto type situation it does not serve the purposes of democratic education.

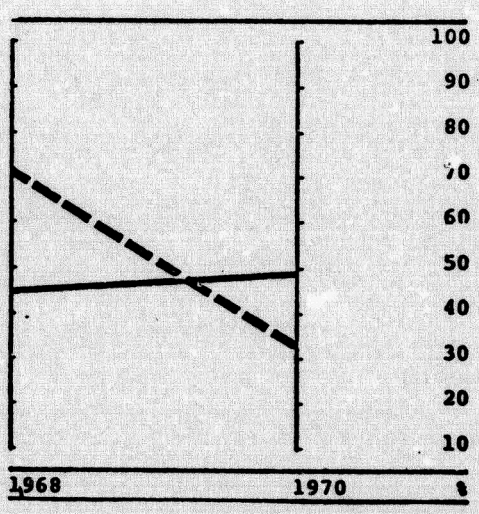
June 17, 1963

Plaintiffs' Exhibit 305.

4.5

Figure 4.1

GROSSLY SEGREGATED SCHOOLS*
IN NEW YORK STATE AND THE ELEVEN SOUTHERN STATES,
FALL, 1968 and FALL, 1970



Source: U. S. Department of Health, Education and Welfare, HEW NEWS, June 18, 1971.

———— New York State

- - - - - - - - - Eleven Southern states

*90 per cent or more minority enrollment.

been demonstrated dramatically in the South, where the trend toward increased school segregation has not only been arrested but reversed.

Remedies for the North

It is beyond the compass and ability of this Commission to prescribe for each of the state's racially imbalanced school districts the method it should employ to end the isolation of races in its schools. Rather, our recommendations focus on the need to develop statutory tools which will assure that desegregation of the state's segregated school districts receives immediate attention. Every community has its unique personality and we do not suggest that one solution applies to all. Nevertheless, given the segregated housing patterns that do exist in New York State, most desegregation plans will involve the careful placement of schools as well as the transportation of students. With respect to the latter, the effects of busing and the accompanying loss of control over their children's schooling are sources of deep concern to parents. The Commission's positions on these difficult issues follow.

BUSING: The Supreme Court recognized as recently as April, 1971,[10] that student transportation is necessary to accomplish racial and ethnic desegregation. Unfortunately, however, the term "busing" has been invested with fearful connotations. The fact is that 19.6 million of the nation's public school children - approximately 42 per cent of the total - are bused to school every day, in every section of the country.[11] Two million of these children are in New York State alone.* In fact, some 58 per cent of the public school children in the state, excluding New York City, are bused to school.[12] The preponderance of this busing is not compelled by court order; in fact, most of it occurs in predominantly white suburban and rural areas where parents pay handsomely, either directly or indirectly, for what they consider the privilege. Bus transportation has been an integral part of the public education system for years and was perhaps the single most important factor in the transition from the one-room schoolhouse to the consolidated school. Within tolerable limits, busing neither endangers health or safety nor impinges on the educational process. However, the anxiety parents feel at the prospect of sending their young children on buses to schools a distance from their homes is very real, and school administrators must make every effort to show parents that their children are safe and cared for. Parents themselves might be recruited to ride the

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*See chapter on Non-Instructional Services for a discussion of transportation practices in New York State.

buses as chaperones. Parents from outside the district might also be hired as liaison workers or in some other capacity in the school to minister to the special needs of children who come from other neighborhoods.

COMMUNITY CONTROL: One of the objections most frequently raised by parents, particularly in large cities, is that they will lose their voice in the administration of their children's schools if their children are bused out of the neighborhood. The Commission shares the view that parent participation and interest are vital to the success of the desegregated school. Community control has been an effective alternative strategy since the 1960's, when the integration movement appeared to be blocked. However, despite its successes, the Commission views community control as a palliative, a powerful transitional device with limited potential when viewed in the context of the much greater social and educational benefits of integration.

School desegregation is likely to be a slow process, but when it is achieved, involvement of parents from all the neighborhoods served by the school must be assured.* The Commission's recommendations for the establishment of Parent Advisory Councils** would provide for many levels of parent involvement.

This Commission firmly believes that opposition to busing can be overcome when steps are taken to reassure parents of the well-being of their children. We also believe that if in a particular instance community control and integration cannot be reconciled, the latter must prevail.

In this context, then, the Administration-sponsored amendment to the proposed Emergency School Assistance Act, which would expressly prohibit the use of any of the bill's $1.5 billion to defray the cost of any busing other than that required by law, is very regrettable.[13]

This action by the Federal government has had the effect of undermining desegregation efforts throughout the country, confusing the American public and eroding the position of those school officials who have extended themselves to discharge their legal and moral responsibilities by attempting to implement desegregation.

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*A three-year study by Educational Testing Service of the recently desegregated elementary schools of Evanston, Illinois, suggests that one result of integration, which involved extensive busing, was increased participation of black parents in parent-teacher association activities and other school-related community projects.

**See chapter on Governance and Accountability.

The issue of desegregation in general, and busing in particular, threatens to become a partisan political matter in the 1972 Presidential election. This complex and agonizing problem must be dealt with at all levels on a bi-partisan basis if solutions are to be found. The issue is not whether to bus or not; the issue is the quality of education at the end of the bus ride and indeed, in a larger sense, the quality, tenor and tone of life in this country.

Integrated Schools

The goal to which the schools must aspire is not merely desegregation, but integration. Many schools in this nation and state have been desegregated, few have been integrated. The difference is profound: simply stated, in a desegregated school, students from different racial, ethnic and social class backgrounds are placed together in a building, and expected to co-exist harmoniously; in an integrated school, a full range of programs and safeguards is employed to assure that the highest degree of tolerance, trust, cooperation and understanding between all participants will prevail.[14]

1. Classroom racial balance. Sorting systems such as "tracking," to the extent that they have the effect of segregating races and social classes into separate classrooms or units of study, are damaging to all students in educational, psychological and social terms.[15] In an integrated school, efforts should be made to assure that individual classes reflect the racial balance of the entire grade.[16]

2. Teacher training. Racial and ethnic prejudice, at least to the extent that it is a societal norm, exists among teachers as it would among any other group selected at random. Because the great majority of teachers are white, and because of the strong influence the teacher-figure has on a child, racial prejudice on the part of the teacher operates to the severe disadvantage of the minority child. It is also possible that teacher attitudes are communicated to white children as well as black, and thus exacerbate the racial prejudice in a classroom.[17]

In order to minimize the possibility of a teacher's conscious or unconscious prejudices undermining integration, teacher re-training might be needed. Experimental approaches such as team teaching, which tends to diminish the effect of a prejudiced teacher on children, should also be tried.

3. An integrated curriculum. Selection of curricular units and activities that relate to the minority child's cultural background can obviously do much to increase the white child's respect and regard for him as well as to heighten the minority child's self-image. Presentation of the curricular materials in an appropriate

fashion is essential. Such materials should be integrated into the regular curriculum so that children do not perceive them as a fad in the regular course of study. They should be presented by a teacher who is sympathetic to the subject matter and devoid of those prejudices that might cause the children to disdain it.

4. Participant preparation. Prior to educational desegregation in a community, there is generally minimal preparation of the direct participants (students, teachers, administrators), and of the indirect participants (parents, community leaders, members of community groups). The process of desegregation is fraught with psychological conflict and tension. Better preparation, including some attention to the emotional processes at work in all participants, is needed both when desegregation begins and as it continues. Local media (radio, newspapers, and television) are also part of the participating community, and they should be prepared and instructed as to how to help constructively.

5. Development of self-awareness. It is important for all people, both white and minority, to establish strong personal identities, and part of that process involves the confrontation of their ethnicity. Thus, the desire of minority groups to examine and explore their unique cultural identities and backgrounds is legitimate and constructive. In an integrated school system, opportunities should exist for such examination and exploration to occur for whites as well as minorities. Racial and ethnic studies, in addition to those required of all students, should be included on an elective basis in the formal curriculum as demand requires, and appropriate time and space should be set aside for students to consider the meaning of their ethnicity in more informal fashion.

The Burden of the Schools

Although the question of housing is beyond the scope of the Commission's charge, we are well aware that the separation of racial and ethnic groups in cities and suburbs is attributable to many complex factors, including housing policies and practices by private as well as public agencies. In order for our society to achieve true integration, many institutions, in addition to schools, will have to be involved. However, those in positions of educational leadership must exercise prompt initiative to achieve the goals of integrated education; the schools cannot wait for other social, business and political forces to respond first. They have the best opportunity to make a contribution here and now to the desegregation and integration of our society.

to nearly 100 separate school districts throughout the state.

Given this background, the Legislature's categorical deletion of the fund from the fiscal year 1972 appropriation to the Education Department is a particularly harsh blow.

Commissioner's Efforts to Implement State Policy

Section 310 of the New York State Education Law provides that any person conceiving himself aggrieved in consequence of any action by local school authorities may take an appeal or petition to the Commissioner of Education. Decisions and orders of the Commissioner under §310 are to be implemented unless purely arbitrary.[81] Furthermore, upon proper showing of disobedience by a school official or school district regarding any decision, order, rule or regulation of the Regents or the Commissioner, the Commissioner is empowered to remove such official from office or withhold such district's share of state funds.[82] Many such appeals have been heard by the Commissioner based upon complaints of racial imbalance.

In theory, then, given the firm policy of the Regents and the apparent resolve of Commissioners Allen and Ewald B. Nyquist over the past decade to achieve integration, racial imbalance should no longer be a problem of large proportions. In fact, however, because of such factors as the continuing trend toward geographical concentration of the nonwhite population in urban centers, concomitant migration of the white population to the suburbs and beyond, recalcitrant local school authorities (usually bolstered by community sentiment on behalf of "neighborhood schools"), the enactment of the "anti-busing law,"[83] and inadequate funding by the Legislature for correction of racial imbalance, the progress toward racial balance in the schools of New York State has been less than satisfactory. Even where orders have been issued to desegregate, recalcitrant local officials have been able to make the process interminable. Illustrative of this is the situation in Mount Vernon, where an endless array of delaying tactics has kept desegregation at a standstill since 1963, while the black population of the district has increased from less than 20 per cent to more than 60 per cent.

Desegregation is also impeded by district organization as presently constituted. Illustrative of a case where current state law prohibited an effort to desegregate is Matter of McCoy et al.[84] In the fall of 1967, the school population of Union Free School District #9 (Wyandanch) was 85 per cent black (the percentage has since risen to 93 per cent).[85] It was felt by a group

Plaintiffs' Exhibit 306.

No 8949

The University of the State of New York

The State Education Department

Before the Commissioner

IN THE MATTER

of the

Appeal of YERBY DIXON et al. from action of the Board of Education of the City School District of the City of Buffalo, in regard to racial imbalance and related subjects.

Herman Schwartz, Esq.....attorney for petitioners

Hon. Anthony Manguso.....attorney for respondent
Corporation Counsel

For the past fifteen years, it has been a fundamental and consistent policy of the Board of Regents and of Commissioners of Education that every child has a right to equal educational opportunity, without regard to race, national origin, religion or economic status, and that equality of educational opportunity cannot exist where children are segregated on the basis of race. That principle was articulated in a statement of policy issued by the Regents in 1960, has been repeated and elaborated in position papers and statements of policy issued by the Regents

in 1968, 1969, 1972 and 1974, has been applied in many judicial decisions of Commissioners of Education, and has been uniformly upheld in the courts. Further reference will be made hereafter to the most recent statement of the Regents issued on October 25, 1974.

On February 15, 1965, then Commissioner of Education James E. Allen, Jr., ordered respondent to prepare, approve and submit to the Commissioner a plan for the progressive elimination of racial imbalance in the public schools of Buffalo (4 Ed. Dept. Rep. 115). Jurisdiction of the appeal was retained by the Commissioner pending his approval of such a plan.

In May, 1965, the Buffalo board of education submitted to the Commissioner a report entitled "The Progressive Elimination of Racial Imbalance in the Buffalo Public Schools". Commissioner Allen found that the report did not deal realistically with the problem and did not present a long-range solution, and advised the board of education accordingly.

In September, 1965 the Buffalo board requested the assistance of the State Education Department "in making a long and deep study of our needs, leading to a long-range planning and solution to our problem". The Commissioner appointed an advisory committee and authorized the expenditure of $30,000 for a study

and the preparation of a report. The report, "A Plan for Accelerating Quality Integrated Education in the Buffalo Public School System", was prepared by the Center for Urban Education and was submitted to the Buffalo board of education on August 23, 1966. The report proposed a 4-4-4 plan which envisioned the construction of middle schools, and the development of comprehensive-specialized high schools and educational parks. It provided for complete integration above the fourth grade.

On September 14, 1966 the board adopted a resolution approving this plan in principle, but not in its specifics, and directed the superintendent to recommend for the consideration of the board a "plan in a manner that will promote the best interests of all children, provided, however, that such recommendations do not involve transportation of white children into non-white residential areas except by their own choice". It later approved and sent to the Commissioner the superintendent's 16-point plan.

On June 7, 1967 the Commissioner notified the board that the report submitted to him was "disappointing and unsatisfactory, lacking specificity and devoid of any real evidence of a serious intent on the part of the board to significantly reduce racial imbalance in the Buffalo school system". He asked for much more

tangible and positive evidence of the board's plan for dealing with the problem. The board made a number of requests for extensions of time, and finally, on January 30, 1968, submitted "Recommendations for Achieving Quality Integrated Education in the Buffalo Public Schools". This report recommended the establishment of a grade organization which would include pre-kindergarten, kindergarten and the first four years of elementary school to be housed in neighborhood elementary schools, the creation of grades 5-8 middle schools, and grades 9-12 high schools. On May 21, 1968 Commissioner Allen approved this report and asked respondent to continue planning and to submit a report by November 15, 1968.

On November 18, 1968, respondent submitted to me a progress report on its plan for "Accelerating Quality Integrated Education". On June 18, 1969 I responded by saying that, "Despite the progress described in the report, the conditions which prompted an appeal to the Commissioner of Education by the parents of black children still exist". I further indicated that in a group of 22 elementary schools with black enrollments varying from 22% to 99% in 1966-67, their status in 1968-69 was as follows: One showed a reduction of 3% in black enrollment; seven showed a reduction of less than 1%; six showed increases varying from 5.7% to 22.7%; and 16 of

the 22 schools had black student enrollments of 90% or more. During these years the board of education had requested and received hundreds of thousands of dollars in special state aid to help in the school integration process.

Upon reexamination of the situation in 1971, I found that racial imbalance in Buffalo had not only not lessened, but had steadily become worse. Funds had not been appropriated for the number of middle schools needed, and the number of racially imbalanced schools had increased. It was evident that increased effort and new approaches were needed. I asked the board to formulate a different plan, and strongly urged the elimination of segregation in the early grades.

Data submitted by the board of education for the 1972-73 school year showed that 41% of all students were black. The same data, however, show that there were 28 schools with 80% or more black students and 23 schools with 90% or more black students.

On January 20, 1972 I asked respondent to strengthen its effort to develop a plan which would eliminate segregation in the early grades and asked that the board submit to me by April 1, 1972 a plan under which every school would substantially reflect the racial composition of the entire district. I

recommended that a committee of district employees and citizens be appointed to evolve a plan for desegregation and a timetable for its implementation, and offered assistance from the State Education Department. In March, 1972 the board sent a letter to me which stated in part, "We regret to advise you that we are unable *** to submit any plan to you by which *** every school would substantially reflect the racial composition of the entire district".

A comprehensive desegregation plan for Buffalo had been developed, however, by the Advisory Planning Council on Desegregation, appointed by the superintendent of schools as authorized by the board of education. Its report, entitled "A Study of Desegregation", but commonly referred to as "The Heck Plan Report", was presented to the board on March 28, 1972. The board "received and filed" this report, but did not implement it.

Because of the consistent failure of the Buffalo board of education to formulate and approve an integration plan of its own, I informed the board on April 6, 1972 that I was directing staff members of the State Education Department to work with Buffalo school officials in developing an appropriate plan.

Accordingly, a draft proposal for the integration of the Buffalo public schools was developed by State Education Department personnel. On November 15, 1972 I sent a copy of the proposal to

the president of the Buffalo board of education, and requested that the reactions and suggestions of the board be sent to me by January 3, 1973. The board president responded by saying, "We have studied the said draft proposal and we respectfully advise you that we feel it provides no basis for solution to any of our problems". At a subsequent meeting with representatives of the State Education Department, the board of education took a strong position against any plan requiring pupil transportation. Since that time State Education Department staff members have refined and improved the draft plan.

A review of other events over the past nine years makes it clear that the respondent has not only neglected to develop and implement an effective plan for racial integration of its schools, but by certain of its acts, procedures and policies has increased segregation within its schools.

The respondent has changed the grade levels served by certain schools, and in so doing has transferred minority students from predominantly white schools to predominantly minority schools.

The respondent has operated a school attended by predominantly black children in an area which is surrounded by predominantly white schools. In so doing the board has established and maintained school attendance areas which have resulted in segregation.

Plaintiffs' Exhibit 306.

The respondent has maintained certain grade structures for predominately white schools and other grade structures for predominately minority schools. According to 1974-75 data, of the twenty-eight schools serving grades K-8, twenty are predominately white. The district's K-4 schools are all predominately white; and its K-7 schools are predominately white. While its K-5 and K-6 schools range from 6.7% minority enrollment to all minority students, most are substantially segregated. Only two of the thirty-four K-5 and K-6 schools have minority enrollments which are within 10% of the district average.

Differences in grade structure account for most white students entering high school at the ninth grade level, and most minority students entering at the tenth grade level, thus creating racially isolated schools for the ninth year.

The respondent has maintained "optional transfer zones" which have resulted in an intensification of segregation. Data indicate that white students living within such zones have been transferred from schools with increasing minority enrollments to predominately white schools, with no comparable transfers from those areas on the part of black students.

The respondent has established attendance zones for newly constructed schools which have resulted in those schools being substantially segregated, although attendance zones could have been established in such a way that the student bodies would have been integrated.

The respondent has made decisions and established policies which have resulted in substantially segregated programs in special education for mentally retarded pupils. The board has arranged to transport many special education children to essentially segregated schools.

The board has operated an essentially all black vocational school for girls.

The board has operated a school for pregnant girls which has an all black student body.

The respondent has permitted white students to transfer out of a high school with an increasing minority population to other predominantly white high schools under a transfer policy based on course selection and offerings. In past years the board approved the offering of certain foreign languages in predominantly white high schools but did not offer comparable courses in a predominantly black high school, thus encouraging increased racial isolation. This transfer policy was substantially responsible for a high school becoming, in 1974-75, 99% black in student population.

Plaintiffs' Exhibit 306.

The respondent has not employed minority professional staff members in numbers which are comparable to the school enrollments or the general population of the city. During the past eight years the percentage of minority staff members has actually declined. A pattern has been developed of assigning minority teachers to schools with high minority populations, thus intensifying the racial isolation of students in the school system.

The respondent, in official board action in 1965, instructed its superintendent to develop an integration plan, but specified that it must not involve the transportation of white children into non-white areas. Such action illustrates the dual standards which have prevailed in board policies concerning the education of white and minority-group children, and which have resulted in a segregated school system.

It is clearly evident from these facts that the respondent is maintaining a segregated school system, a condition which is contrary to law and to state policy.

It is also evident that the Buffalo board of education has taken actions which have had both the purpose and the effect of maintaining a substantially segregated school system, and that there is a direct relationship between the acts of the board of

education and the current condition of segregation. In taking such actions, and in continuing to operate a segregated school system, the Buffalo board of education has violated the Fourteenth Amendment to the Constitution of the United States and has denied equality of educational opportunity to many of its children by reason of their race.

An important corollary to the principle of equal educational opportunity is the belief that the initial opportunity - and responsibility - to achieve it rests with the respective school districts of the State. My commitment to that belief led me to explore every avenue which might lead to voluntary action on the part of the Buffalo board of education. Unfortunately, those efforts have not been successful. I have therefore directed my staff to prepare an appropriate plan for reorganization of the City School District of the City of Buffalo, together with a reasonable time-table for implementation. Explanatory materials and maps are attached to this order as appendices A and B, which are hereby made a part of this order. Such plan is as follows:

I. The Plan for Reorganization and Desegregation

The district will be reorganized into a K-4, 5-8, 9-12 system in the following manner:

* * *

Plaintiffs' Exhibit 306.

FOR RELEASE TUESDAY, FEBRUARY 16, 1965
FROM: THE NEW YORK STATE EDUCATION DEPARTMENT, ALBANY
WALTER R. KING, PHONE GR-4-3851

Albany, N.Y. Febr. 15, 1965.....Dr. James E. Allen, Commissioner of Education, today ordered the Buffalo Board of Education to submit to him on or before May 1, 1965 "a plan for progressive elimination of racial imbalance in the schools, including substantial steps to be taken in this direction beginning with the school year 1965-66."

The Commissioner's order upheld the appeal of Yerby Dixon, et al, a group of parents in Buffalo who had charged the Board of Education with failure to desegregate the schools, particularly the Woodlawn Junior High School.

A copy of Commissioner Allen's decision is attached.

-30-

Plaintiffs' Exhibit 306. No

The University of the State of New York

The State Department of Education

Before the Commissioner

IN THE MATTER

of the

Appeal of YLEBY DIXON, et al. from action of the Board of Education of the City School District of the City of Buffalo in regard to racial imbalance and related subjects.

Carter, Morris, Steel & Franklin, Esqs.....Attorneys for Appellants
Robert L. Carter, Esq. of Counsel
Joan Franklin, Esq. of Counsel
Herman Schwartz, Esq. of Counsel
Ann Feldman, Esq. of Counsel

Hon. Robert E. Casey, Jr.....Attorney for Respondent
Corporation Counsel
Elmer S. Stengel, Esq. of Counsel

Hodgson, Russ, Andrews, Woods & Goodyear, Esqs.....Attorneys for Respondents-Intervenors
Richard E. Heath, Esq. of Counsel

Williams & Stevens, Esqs.....Attorneys for Respondents-Intervenors
E.W. Dann Stevens, Esq. of Counsel

This appeal, brought in behalf of several children, by their parents and natural guardians, alleges: 1) the maintenance of racial imbalance in the Buffalo public school system, particularly in the elementary schools and in the Woodlawn Junior High School; 2) the refusal of the Board of Education to formulate and execute plans and procedures designed to eliminate racial imbalance; and 3) discrimination in employment and placement of Negro teachers. The charge is also made that the predominantly Negro schools are educationally inferior and that

the Board's contemplated building program and "other plans" will further aggravate the racial imbalance existing in the Buffalo school system.

Petitioners seek to have the Commissioner draw up a desegregation plan for the school system "which the Board will be directed to implement".

With respect to the third allegation, namely, that discrimination exists in employment and assignment of Negro teachers within the school system, I find no proof in the record before me that respondent board has engaged in discrimination. It is also observed that there is no indication that any person aggrieved, within the meaning of Section 310 of the Education Law, has joined in this appeal with respect to the charge of discrimination. I must, therefore, dismiss that part of appellants' charge concerning the question of discrimination in employment and placement of teachers.

With respect to the charge of racial imbalance, the record shows that the enrollment in many of the City School District's elementary schools and in the Woodlawn Junior High School is almost wholly Negro. For example:

School	% Negro Pupils
School No. 6	91
School No. 8	99
School No. 12	97
School No. 15	78
School No. 17	97
School No. 31	92
School No. 32	94
School No. 37	91
School No. 39	86
School No. 41	97

Plaintiffs' Exhibit 306.

School (con't.)	% Negro Pupils (con't.)
School No. 47	99
School No. 48	92
School No. 53	97
School No. 74	99
School No. 75	99
School No. 93	100
Woodlawn Junior High School	variously described as "almost 100 %" and as "predominantly Negro"

I am of the opinion that in the minds of pupils and parents a stigma is attached to attending a school whose enrollment is completely or predominantly Negro, and that this sense of stigma and the resulting feeling of inferiority have an undesirable effect upon the motivation and attitudes related to successful learning. Recognizing, therefore, the right of every child to equal educational opportunity, I hold that in developing its pupil assignment policies and in planning for new school buildings, it is incumbent upon a board of education to take into account the continued existence or potential creation of a school populated entirely, or largely, by Negro pupils. (Matter of Vetere v. Allen, 2 Ed. Dept. Rep. 501, 41 Misc. 2d 200, revd. 21 AD 2d 561; Matter of Di Sano v. Storandt, 43 Misc. 2d 272, revd. 22 AD 2d 6; Matter of Strippoli v. Bickal, 42 Misc. 2d 75, revd. 21 AD 2d 365; Matter of Balaban v. Rubin, 40 Misc. 2d 249, revd. 20 AD 2d 438, affd. 14 NY 2d 193 cert. den. ___US___October 19, 1964; Blocher v. Board of Education, Manhasset, 226 F. Supp. 208; Matter of Addabo v. Donovan, 43 Misc. 2d 621 affd.___AD2d__, January 11, 1965; Matter of Schnepp v. Donovan, 43 Misc. 2d 917; Matter of Van Bleykom v. New York City Board of Education, 44 Misc. 2d 356, affd. 22 AD 2d 71; Branche v. Board of Education, 204 F. Supp. 150; Taylor v. Board of Education, 191 F. Supp. 181, 288 F. 2d 600; 294 F. 2d 36; 368 US 940)

Plaintiffs' Exhibit 306.

It must be apparent to the petitioners, however, as well as to everyone else concerned, that there is not and cannot be an easy or instant solution to the problem which is the main thrust of this appeal. Involved in the ultimate solution to de facto segregation in a school system is of course the elimination of segregated housing, slum conditions and other undesirable socio-economic conditions which lie beyond the control of the Board of Education or of the Commissioner. Not only is the problem per se a complex and difficult one in Buffalo, but the Board of Education is handicapped by the fact that it is by law fiscally dependent on the municipal government, and that the city school district is severely restricted by the constitutional tax limitation.

Despite these difficulties, I am convinced that constructive steps can be taken to bring about substantial improvement in the situation and that the Board has not exhausted the possibilities for remedy. Furthermore, I am not satisfied that the Board has been sufficiently aggressive and determined in seeking a feasible plan of action.

This is a matter requiring strong leadership by the Board of Education and it must accept responsibility for that leadership. There are available to the Board, I am sure, in the City, particularly in its institutions of higher education, and in its staff, as well as elsewhere, technical and consultant resources capable of assisting the Board to devise and implement a feasible plan for eliminating racial imbalance and for raising the quality of learning opportunities for the pupils of Buffalo. I urge the Board to take full advantage of these resources.

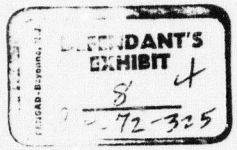
Jurisdiction over this appeal is retained by me pending the adoption by the Buffalo Board of Education of a plan for mitigating the problem of racial imbalance which meets with my approval. Furthermore, I am reserving the right to make such further order or orders in this case as shall be necessary to effectuate a plan approved by me.

IT IS ORDERED that the Board of Education of the City School District of the City of Buffalo prepare, approve and submit to me on or before May 1, 1965 a plan for the progressive elimination of racial imbalance, including the steps to be taken in this direction beginning with the school year 1965-66.

IN WITNESS WHEREOF, I, James E. Allen, Jr., Commissioner of Education of the State of New York, for and on behalf of the State Education Department, do hereunto set my hand and affix the seal of the State Education Department, at the City of Albany, this 15 day of February, 1965.

James E. Allen, Jr.

Commissioner of Education



ETHNIC CLINICS - EAST HIGH SCHOOL

FROM 1966 TO PRESENT

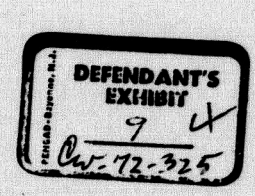
MEMBERSHIP

YEAR	BLACK	ACTUAL % OF BLACK	TRANSFERS GRANTED (BLACK)	% IF TRANSFERS WERE NOT GRANTED (BLACK)	TOTAL NO. OF BLACKS	WHITE	ACTUAL % OF WHITE	TRANSFERS GRANTED (WHITE)	% IF TRANSFERS WERE NOT GRANTED (WHITE)	TOTAL NO. OF WHITES	ACTUAL ENROLLMENT SEPT FOR THE YEAR	TOTAL ENROLLMENT SEPT IF TRANSFERS WERE NOT GRANTED
1966	1638	90.1	39	86.9	1677	180	9.9	73	13.1	253	1818	1930
1967	1702	93.8	74	88.9	1776	112	6.2	109	11.1	221	1814	1997
1968	1557	97.3	91	90.6	1648	42	2.7	129	9.4	171	1599	1819
1969	1669	98.4	112	93.9	1781	27	1.6	87	6.1	114	1696	1895
1970	1686	98.6	114	90.0	1800	24	1.4	176	10.0	200	1710	2000
1971	1341	99.8	102	96.5	1413	2	.2	51	3.5	53	1343	1496
1972	1370	98.3	7	97.7	1377	23	1.7	9	2.3	32	1393	1409
1973	1615	98.6	6	98.5	1621	23	1.4	2	1.5	25	1638	1646

167

Defendants' Exhibit 9.

(168)



EAST — Population Change

Fract	1930 Black	1930 Total	1950 Black	1950 Total	1960 Black	1960 Total	1970 Black	1970 Total
14.01	6,729	(12,072)	12,957	(14,435)	9,686	(10,291)	8,670	(8,866)
14.02								
15	2,131	(13,502)	6,258	(13,376)	7,448	(11,108)	6,914	(8,350)
25.01	1,522	(17,435)	4,534	(16,824)	8,956	(13,389)	6,266	(7,156)
25.02								
26	148	(5,872)	896	(5,354)	2,965	(5,135)	3,587	(3,954)
27.01	17	(24,792)	59	(20,323)	279	(16,851)	3,362	(14,445)
27.02								
31	65	(15,379)	198	(15,490)	4,399	(12,418)	9,234	(11,135)
32.01	898	(17,044)	5,146	(18,515)	14,929	(18,364)	13,782	(14,538)
32.02								
33.01	65	(17,750)	776	(16,597)	11,767	(16,238)	14,654	(15,673)
33.02								
35	7	(11,592)	6	(10,763)	554	(10,514)	6,540	(10,257)

Defendants' Exhibit 10.

SCHOOL # 6 (94.3%) Hickory & South Division - - - - - - - - - 14.01
(1930)-6729 - 55.7%; (1950)-12,957; (1970)-8670 - 97.8%
No policy whatsoever - except voluntary busing.

SCHOOL # 8 (99.9%) East Utica & Masten - - - - - - - - - - - - 32.02
(1930)-898 - 5.3%; (1970) 13,782 - 94.8%
No policy whatsoever.

SCHOOL # 12 (100%) Ash Street - - - - - - - - - - - - - - - - - 25.02
(1930)-1522 - 8.7%; (1970)-6266 - 87.6%
No policy.

SCHOOL # 23 (91.4%) Delavan-Moselle - - - - - - - - - - - - - 34,36, 40
(34) (1930)- 25- 0.29%; (1970) - 4448 - 62.0%
(36) (1930)- 16- 0.19%; (1970) - 1084 - 15.8%
(40) (1930)- 47- .051% (1970) - 1405 - 15.7%
(1966) - 14.5%)
No policy change.

SCHOOL # 31 (99.2%) Stanton Street - - - - - - - - - - - - - 15
(1930) 2131 - 15.8%; (1970) - 6914 - 82.8%
No policy

SCHOOL # 39 (100%) High Street - - - - - - - - - - - - - - - - 31
The figures are the same as School # 37.
No policy.

SCHOOL # 41 (99.7%) Jefferson & Sycamore - - - - - - - - - - 26
(1930)148 - 2.5%; (1970) - 3587 - 90.7%
No policy.

SCHOOL # 47 (100%) Hickory - - - - - - - - - - - - - - - - - - - 25.02
Same as School # 12.
No policy.

SCHOOL # 48 (99.7%) Edna-Michigan - - - - - - - - - - - - - 32.02
(1930) - 898 - 5.3%; 1970- 13,782 - 94.8%
No policy.

SCHOOL # 53 (99.7%) Woodlawn-Roehrer - - - - - - - - - 33.02
(1930) - 65 - 0.37%; (1970) - 14,654 - 93.5%

No policy

SCHOOL # 59 (97.6%) Glenwood - - - - - - - - - - - - - 34 - 35
(35) (1930) - 7 -0.06%; (1970) - 6540 - 63.8%
(34) (1930 -25 -0.29%; (1970) - 4448 - 62.0%

SCHOOL # 61 (77.3%) (1966- 2.8%) - Leroy - - - - - - - 39 - 40
(39) (1930) - 36 - 0.45%; (1970) - 1522 - 24.8%
(40) (1930)- 47 - 0.51%; (1970) - 1405 - 15.7%

No policy

SCHOOL #62 (92.5%) (1966-14.17) 376 Urban - - - - - 35
(1930) - 7 - (0.06%); (1970)- 6540 - 63.8%

No policy

SCHOOL # 74 (98.7%)126 Donaldson Rd - - - - - - - - - 33.01
(1930) - 65 - 0.37%; (1970)- 14,654 - 93.5%

No policy!

SCHOOL # 75 (99.2%)99 Monroe - - - - - - - - - - - - - 15

Same as School #31.

No policy

SCHOOL # 90 (88.8%) (1966- 34.4) "A" Street [27.01 / [27.02 / [35 -
(1930) - 17 - 0.07% ; (1970)- 3362 - 23.3%
(1930) - 7 - 0.06% ; (1970)- 6450 - 63.8%

No policy - A lot of Parochial Schools, black school in predominantly white area - reflects that a school in a peripheral area becomes predominantly black without interference or assistance from defendants.

SCHOOL # 78 - 41.3% (1966 - 8.1%) Olympic near Expressway- - 42
(1930) - 4 - 0.06%; (1970) - 106 - 2.3%

1966 - 8.1% black (61) Total 750
1972 - 31.2% " (224) " 718
1973 - 41.3% " (293) " 710

No policy.

Defendants' Exhibit 10.

SCHOOL # 82 (52.1%) (1966 - 6.6%) Easton-Suffolk - - - 41

(1930) - 0 - 0 (1970) - 371 - 4.6%

			White		
1966	- 50	- 6.6%	710	Total	808
1972	-326	-42.2%	445	"	771
1973	-421	-52.1%	387	"	761

No policy

SCHOOL # 85 Annex to #82

SCHOOL 57 (48.4%) Sears - - - - - - - - - - - - - - - 16

(1930) - 24 - 0.15%; (1970) - 236 - 2.9%

1966 -	128 -(40.9%)	185	59.1%
1972 -	147 -(49.2%)	149	49.8%
1973 -	137 -(48.4%)	144	50.9%

Where the school is in a predominantly white neighborhood the racial balance appears to remain more stable - reflects, in my opinion, the reluctance of white parents to send children to a school located in black residential neighborhood - as opposed to the integrated school.

SCHOOL # 16 (88.0%) 939 Delaware Ave. -Utica - - - - 67.02

(1930) - 64 - 0.70% (1970) = 262 3.2%

1966 - 83.9%
1972 - 84.6%
1973 - 88.0%

1) Go to parochial school and other private.
2) Composition of neighborhood changed more dramatically in white sector as opposed to black sector.
3) Use of optional district

School population dropped - - - - period - - -

* The school proposed a new school which would combine # 16 and #30 - - -

* The school would be integrated - - - -

* Also closing #30 sending students to #16 -

SCHOOL # 17 (99.4) Main & Delavan - - - - - - - - - 64

(1930) - 2 (0.18%) ; (1970) 487 - 46.5%

The neighborhood all black.

BEST COPY AVAILABLE

Defendants' Exhibit 10.

4.....

SCHOOL # 54 -(66.2%) Main and Leroy - - - - - - - - - - 52.01
52.02

(1930) -16 - 0.18% (1970) - 3835 - - - 43.1%

Just about mirrors the neighborhood.

Black parents hesitate to send children into white neighborhoods when they perceive hostility towards blacks in that neighborhood, e.g. Riverside High School after disruption, reversed trend -

1966 - 1.3%; 1972 - 17.2%; 1973 - 14.3%

The rise between 1966 and 1972 was primarily a result of integration program -

Shows that integration is resisted by Blacks as well as Whites.

ETHNIC CENSUS - EAST HIGH SCHOOL

FROM 1966 TO PRESENT

MEMBERSHIP

YEAR	BLACK	%	WHITE	%	TOTAL
1966	1638	90.1	180	9.9	1818
1967	1702	93.8	112	6.2	1814
1968	1557	97.3	42	2.7	1599
1969	1669	98.4	27	1.6	1696
1970	1686	98.6	24	1.4	1710
1971	1341	99.8	2	.2	1343
1972	1370	98.3	23	1.7	1393
1973	1615	98.6	23	1.4	1638

1760

Defendants' Exhibit 11.